



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Forty-sixth session

#### Summary record of the second part (public)\* of the 2nd meeting

Held at the Palais Wilson, Geneva, on Monday, 2 May 2011, at 3 p.m.

*Chairperson:* Mr. Pillay

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Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: documents submitted by non-governmental organizations

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\* No summary record was prepared for the first part (closed) of the meeting.

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*The second part (public) of the session was called to order at 4.05 p.m.*

**Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: documents submitted by non-governmental organizations**

*Turkey*

1. **Ms. Özpınar** (FoodFirst Information and Action Network [FIAN] International) recalled that the Turkish Government planned to construct 1,738 dams and hydroelectric power plants by 2023, in addition to the 2,000 such installations already existing in Turkey. However, despite the scale of the plan, no environmental or social impact study had been carried out, even though it affected all of Turkey's watercourses and threatened the water resources and way of life of some 2 million people.
2. His NGO believed that violations of human rights linked to the construction of dams and hydroelectric power plants should be stopped. Furthermore, the Government should withdraw the existing bill on nature and the preservation of biodiversity and adopt a new policy on the conservation of water and the environment, guaranteeing the full participation of civil society and local populations in the decision-making process. The Government must also reverse the amendments to the law on renewable energy sources, which opened the way for deforestation and exempted private companies from carrying out any environmental impact study on their projects. Measures should also be taken to encourage traditional ways of life and ensure that rural populations were not reduced to poverty and forced to flee the countryside. The people of Anatolia felt a moral duty to protect their lands and fight to the end to preserve the local populations' culture and rights.
3. **Mr. Ayboga** (FIAN International), deploring the detrimental practices of the Turkish Government, in particular the project involving the construction of eight dams in Dersim (Tunceli) Province, said that neither the local authorities nor civil society organizations had been consulted on the project, nor had any impact study been carried out.
4. The two main valleys of the Munzur River, home to a number of Alevi shrines and the largest group of speakers of the Zazaki dialect, included in the Atlas of the World's Languages in Danger, compiled by the United Nations Educational, Scientific and Cultural Organization (UNESCO), were at risk. The local economy, agriculture, livestock farming and green tourism activities were also under threat, particularly in the Munzur Valley National Park, home to 55 endemic species. Despite the mass mobilization of the local population, the Government refused to encourage the development of tourism and to abandon the dam construction project. The people of Dersim (Tunceli) Province, who had spent the last 100 years living under an almost constant state of emergency rule and who had been deprived of the freedom of expression, demanded the right to be heard and to take part in the decision-making process.
5. **Ms. Drillisch** (FIAN International) said that Turkey must amend its expropriation and resettlement legislation as a matter of urgency, in order to guarantee an adequate standard of living for the populations affected by dam construction. The Government must also draw up legally-binding action plans, along with feasible income restoration measures, to be implemented with the prior informed consent of the populations concerned. Particular attention should be paid to the protection of vulnerable groups.
6. In the meantime, all dam construction work should be halted, especially work on the Ilisu Dam. Moreover, expropriation and resettlement measures should be reassessed, in order to restore the livelihoods of those populations affected and relieve their debt burden.
7. **Ms. Eberlein** (FIAN International) denounced the situation of the Sarıkeçili Yuruks, nomadic herdsmen who, over the past few years, had been forced to adopt a sedentary

lifestyle in the Karaman region. Deprived of access to education, employment and sources of income, they were under significant psychological pressure. Alongside those grave difficulties, they were also affected by problems linked to the construction of about 60 dams in the Göksu River Basin, which cut them off from water sources and endangered the future of their herds.

8. **Ms. Özgökçe** (Programme for Women's Economic, Social and Cultural Rights (PWESCR)) regretted that, despite a high growth rate, from which women across Turkey benefited little, Turkey's wealth was mainly concentrated in the western regions.

9. Turkey must urgently enact a law on gender equality. The Constitution and the anti-discrimination bill should include a definition of discrimination based on sex, including sexual orientation and sexual identity. In parallel, officials should be trained in gender equality issues. The Government should endeavour to promote the rights of women with disabilities — particularly in the fields of education, health, employment, politics and adoption — and fully implement the Prime Minister's circular on the employment of women. Funds should also be allocated to preschool education and childcare services for infants under the age of 5. Adequate budgetary resources should also be set aside for implementation of the National Action Plan to Combat Violence against Women and a comprehensive monitoring system, with specific benchmarks, targets and deadlines, should be developed. Any progress on implementing that Action Plan and the National Action Plan on Gender Equality should be accurately measured.

10. **Ms. Yalçındağ** (PWESCR) said that the unequal distribution of wealth and resources between the east and the west of Turkey exacerbated discrimination against Kurdish women, who lacked access to education in their mother tongue and Kurdish women's participation in the labour force was 6 per cent (compared to the national average of 25 per cent). In the south and south-east of Turkey, areas with a majority Kurdish population, one Kurdish woman in two was a victim of violence (compared to the national average of 39 per cent); infant and maternal mortality rates were higher than the national averages; and the fertility rate was almost double the national average.

11. Turkey must draw up a new democratic and civil Constitution, the first step towards a peaceful solution to the Kurdish question. Moreover, those who had committed crimes and human rights violations during the 30-year armed conflict must be prosecuted.

12. The authorities must set up programmes to train translators and gender-equality specialists to work for the social services, courts and health-care facilities in the east and south-east of Turkey. Legal texts on women's rights must be made available in languages other than Turkish. Rehabilitation centres should be established in those same regions for women with conflict-related psychological problems, offering counselling in Turkish, Kurdish and Arabic. Data must be collected on the numerous cases of discrimination against women whose mother tongue was not Turkish and who had attempted to access education and health services. The right to education imparted in their mother tongue must be enshrined in the Constitution. Furthermore, effective measures should be taken to put an end to the killing of women by male family members, and to "honour killings".

13. **Mr. Sadi** asked whether, in order to establish equal treatment and promote women's rights in Turkey, it would not be more useful to work to demolish cultural barriers and change attitudes, rather than to adopt specific laws.

14. **Mr. Tirado Mejia** said that he might not have fully understood the demands of the Turkish NGOs. Did they wish the construction of dams in Turkey to be stopped? Or were they asking for a framework law to be adopted on the management of watercourses, which would specifically provide for prior consultation with affected populations?

15. **Mr. Ribeiro Leão** requested confirmation that the populations affected had been neither consulted prior to the beginning of construction work nor compensated for ensuing damage.

16. **Ms. Shin** opined that cultural barriers could be removed by the creation of a legislative framework. She would like to know whether the representatives of the NGOs present thought it preferable to adopt a specific law on gender equality or a more comprehensive anti-discrimination law containing a number of specific provisions for the protection of women's rights.

17. The NGO representatives might also provide some insight into the existing birth registration system and clarify, in particular, whether it was compulsory for births to be entered in the civil status registers and whether girls had to be registered at birth in the same way as boys.

18. **Ms. Özpınar** (FIAN International) explained that Turkey was constantly introducing new laws and that the general public consequently considered the legislation suspect. Therefore, it was particularly important to discuss with the Turkish delegation the need to create a legal framework to provide lasting protection for a number of rights.

19. Most private enterprises began work on their dam construction projects without any prior social and environmental impact study. All of Turkey's watercourses were affected. Indeed, the problem was not limited to the construction of a single hydroelectric power plant: sometimes more than 20 construction sites were located along the same stretch of river. Lastly, the populations concerned were not consulted at any stage of the process, because such projects had become a priority in Government policy.

20. **Mr. Ayboga** (FIAN International) said that, rather than systematic opposition to dam construction in Turkey, the framework for decision-making adopted in 2000 by the World Commission on Dams (WCD), which brought together best practices in that field, should be applied.

21. **Ms. Özgökçe** (PWESCR) said that, in the past, religious marriages had been more common than civil ceremonies. However, with the introduction of the requirement to produce a civil marriage certificate in order to benefit from social services, the situation had been reversed. That development was proof that a law could have repercussions on cultural traditions.

22. In the context of Turkey — where the Prime Minister himself had admitted that he did not believe in gender equality and that homosexuality was a disease — if discrimination was to be eradicated there was first of all need for a legal framework that included a definition of discrimination. Such a framework would make it possible to amend the provisions of the Criminal Code and the Civil Code and, ultimately, to adopt a law against discrimination.

23. In urban centres, where all hospital births (regardless of the infant's sex) were systematically declared for the purposes of civil status, births were registered as a matter of course, which was not always the case in rural areas.

#### *Republic of Moldova*

24. **Ms. Sorocan** (National NGO Coalition) said that, in the Republic of Moldova, the elderly (who constituted 14 per cent of the population) were the worst hit by poverty. Although pensions had increased by about 20 per cent since 2008, the average pension was still only 60 per cent of the minimum subsistence income. Furthermore, large numbers of people had gone overseas to find employment (25 per cent of the economically active population), and those employed in the informal sector risked receiving no pension once they reached retirement age.

25. The elderly were also victims of violence, including domestic violence (particularly in rural areas), as well as various forms of discrimination, notably in access to health care.

26. Against that background, the Committee should consider the following recommendations: that the State party should increase pensions to ensure that pensioners enjoyed an adequate standard of living; enable workers in the informal sector and migrant workers to receive pensions when they reached old age; and ensure that the elderly had access to the highest standard of health and access to health care, especially to family physicians, even in isolated rural areas, as the rest of the population did.

27. **Ms. Mardari** (National NGO Coalition) described the extent to which persons living with HIV/AIDS were deprived of their right to privacy and to confidentiality of medical records, and listed a number of recommendations that the Committee might wish to make to the Republic of Moldova in connection with its consideration of the State party's second periodic report (E/C.12/MDA/2). The Committee might also invite the State party to ensure that only HIV/AIDS curative institutions had access to personal data needed in medical surveillance; that medical staff were bound by confidentiality agreements; and that the informed consent of patients was sought for the processing of their confidential data.

28. Furthermore, given the deep-seated homophobic attitudes in the Republic of Moldova, the State party should be encouraged to adopt a comprehensive anti-discrimination framework which would also prohibit discrimination on the grounds of sexual orientation.

29. **Ms. Lefter** (National NGO Coalition) said that, given the small percentage of women present in public life, the Coalition recommended that the Moldovan Electoral Code should be amended to ensure that at least 30 per cent of candidates in parliamentary elections were women, and at least 40 per cent in local elections. Female unemployment was extremely high, there being no mechanism that offered them genuine protection. A functional mechanism was needed for implementing the law governing equal opportunities for women and men, and the anti-discrimination law on the prevention and combating of discrimination. It would also be useful to include disaggregated statistics in Moldova's economic and social reports. As to domestic violence against women, children and the elderly, local public bodies should draw up strategies, plan their budgets and meet their obligations, in particular with regard to Act No. 45 on Preventing and Combating Domestic Violence, in order to play an active role in the fight against that phenomenon.

30. **Mr. Rusanovschi** (National NGO Coalition) said that Roma constituted the most vulnerable and politically underrepresented ethnic group in the Republic of Moldova. They faced all kinds of discrimination at school, on the labour market and in access to health care and housing. Against that background, the Government should adopt a new action plan for the Roma community for the period 2011–2015, with the necessary funding, accompanied by an implementation monitoring mechanism. Although progress had been made with regard to persons with disabilities, access to employment and vocational training, as well as to rehabilitation centres for children, continued to be problematic. The authorities should, therefore, take measures in that regard, especially with a view to ending discrimination against them. The scale of emigration called for measures to ensure that the many children left in Moldova by parents who had moved abroad did not drop out of school or, in particular, fall victim to human trafficking.

31. **Ms. Lamackova** (Center for Reproductive Rights), claiming that the Republic of Moldova was not fulfilling its commitments with regard to sexual and reproductive health under the International Covenant on Economic, Social and Cultural Rights, denounced the lack of compulsory sex education in schools, the dearth of access to affordable modern contraceptives, and the continued need for parental consent concerning minors' access to health services. Women wanting an abortion beyond the first trimester found themselves

faced with a number of obstacles. A case in point was “Ms. Z”, sentenced to 20 months’ imprisonment for having undergone a self-induced abortion at home, at an advanced stage in pregnancy. She had been unaware that she was pregnant owing to her irregular menstrual cycle, and her ignorance about sexual and reproductive health. Reported to the police by a doctor at the hospital where she had been admitted as an emergency, she had been found guilty of murder, even though her medical records had stated that she had had an abortion, and Moldovan criminal law had no criminal sanctions against women who had abortions. In prison, “Ms. Z” had been deprived of the necessary health care and been mistreated by warders.

32. Neither did the Republic of Moldova respect the principle of non-discrimination on the grounds of gender, nor were detention conditions adapted to women’s particular needs. Prison warders received no training in monitoring female detainees or respecting their privacy. The conviction of “Ms. Z” was the result of discrimination particularly against pregnant women, and the stigmatization of abortion in Moldova. It was also partly explained by the lack of information and training of law enforcers and health professionals alike, in abortion legislation, women’s rights and, in particular, sexual and reproductive health rights. The fact that health professionals were required to report to the authorities any woman who had had an illegal abortion constituted a violation of international human rights norms.

33. **Mr. Tirado Mejia** asked whether the sale of women, which the Committee had deemed of particular concern in its concluding observation on the initial report of the Republic of Moldova (E/1990/5/Add.52) remained at the same levels, had abated or, on the contrary, had increased.

#### *Germany*

34. **Ms. Stamm** (Alliance for Economic, Social and Cultural Rights in Germany – WSK-Allianz), speaking on behalf of some 20 organizations, said that, with regard to article 9 of the Covenant, the reform of the social security system had led to the deterioration of the living conditions of low-income persons and to a situation in which those dependent on social assistance no longer benefited from the same rights as their fellow citizens, in violation of the principle of non-discrimination. The Government should therefore take the measures needed to strengthen those groups’ legal protection. With regard to article 11 of the Covenant, in February 2011 the Federal Constitutional Court had declared that the Government should guarantee a minimum of subsistence aid in order to respect human dignity, especially since unemployment benefit payments were currently insufficient to cover basic needs.

35. **Mr. Frey** (Forum-Pflege-aktuell and Aattac Munich) recalled that in 2001 the Committee had invited Germany to adopt urgent measures to improve the situation of nursing home residents. Between 2004 and 2007, the Medical Service of national associations of health insurances (MDS) had inspected Germany’s nursing homes, as had the German National Human Rights Institute in 2006. The inspections had shown that 41 per cent of residents were not being given adequate food and drink and that many had not been receiving appropriate care. He asked the Committee to call the German Federal Republic to order over its lack of action and to urge it immediately to take measures to bring that situation to an end, notably by increasing the number of qualified staff working in those facilities and by carrying out more thorough investigations. As to child poverty and malnutrition, several organizations confirmed that 50 per cent of primary and secondary schoolchildren frequently went without breakfast, indeed even lunch; Germany was short of childcare facilities, in particular full-time day schools; children of disadvantaged families were unable to have normal social lives; and the gap between rich and poor was widening. He therefore urged the Committee to make the pertinent recommendations.

36. **Mr. Nestler** (Society for the Protection of Civil Rights and Human Dignity – GBM) explained that most of GBM's members were from East Germany, thus clearly showing that current living conditions in Germany were not equal for all, including with regard to pension rights, and stressed the deterioration of the social security and health systems and the passivity of German courts. Given the claim in paragraph 7 of the report under consideration (E/C/DEU/5) that draft legislation and regulations were automatically reviewed in full before being promulgated, his NGO was surprised at the number of cases in which the Covenant provisions had not been respected in laws and regulations. It also hoped that Germany would ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights without delay.

37. **Ms. Wenk-Ansohn** (Berlin Center for the Treatment of Torture Victims), focusing on the laws, in particular the Asylum-Seekers Benefits Act, which flouted various economic, social and cultural rights, including the right to non-discrimination, said that asylum-seekers were not allowed to travel beyond a radius of 30 km, which restricted their right to access to a lawyer, education, work or even health care, and prevented them from attending cultural events or visiting relatives. The benefits they received were about 40 per cent lower than the minimum social benefits, and children received only 60 per cent of that amount. In many Länder, refugees had to live for long periods in overcrowded accommodation allocated to them, with poor hygiene conditions. Asylum-seekers and refugees had access to health care only in cases of emergency or painful illnesses, while refugees enjoyed only limited access to the labour market and vocational training.

38. **Ms. Veith** (Intersexuelle Menschen e.V.) requested that surgical and medical procedures linked to intersexuality should not be carried out on intersexed persons unless their condition were life-threatening or they were undergoing cosmetic procedures with their written consent. Moreover, physicians should be obliged to provide intersexed persons with copies of their medical records and they should have non-discriminatory access to health care that took account of their specific needs. She would also like the castration, normalization and genital mutilation of intersexed persons to end.

39. **Ms. Shicklang** (Aktion Transsexualität und Menschenrecht e.V.) denounced the promotion of sexist stereotypes in Germany (supported by the current practices and laws in force in the country) as being contradictory to the provisions of the Covenant and, in particular, articles 2 and 12. She requested the Committee to intervene in order to halt such practices. Her NGO also requested the repeal by the State party of the laws imposing psychiatric examinations on transsexuals who wished to alter their gender category on their identity papers.

40. **Mr. Hausmann** (German Human Rights Forum and FIAN Germany), speaking, first of all, on behalf of the German Human Rights Forum concerning Germany's extraterritorial development cooperation obligations, called for more attention to the German policies' possible negative impact on economic, social and cultural rights. Human rights impact assessments should be carried out in order to prevent projects' negative consequences. He called for the introduction of an independent complaints procedure that would be open to persons who had suffered the negative effects of projects that had received German cooperation and development aid. Finally, he called for increased efforts to ensure the coherence of human rights policy, in particular the prompt assessment of the effects of trade and investment on those rights.

41. Speaking on behalf of FIAN Germany, he urged the German Government to conduct an inclusive and qualitative evaluation of its development cooperation in the land sector in Cambodia and to set up a human rights monitoring mechanism with the active participation of affected groups.

42. **Mr. Paasch** (MISEREOR) addressed the issue of Germany's extraterritorial obligations within the framework of the European Union's trade and agriculture policies. He called on the German Government to request the EU to carry out prior evaluations of the impact of all the recent bilateral free trade agreements, as well as those currently being negotiated, on human rights, according to the guiding principles proposed by the Special Rapporteur on the right to food. He also called for a similar assessment of the Common Agricultural Policy (CAP) prior to the adoption of the 2013–2020 reform. As part of that reform, Germany should also propose an end to all cut-price exports to developing countries and, at the very least, a halt to direct export subsidies, independent of the outcome of the Doha Round. Germany should also propose the establishment, at EU level, of a complaints mechanism for individuals or groups who felt that the CAP or the EU trade policy had violated their right to food. Germany should also ensure that free-trade agreements and the loan conditions of the International Monetary Fund (IMF) did not restrict developing countries' margin for manoeuvre regarding protection of access to their markets, their incomes and their populations' right to adequate food. Germany should propose that trade agreements' clauses on human rights should be amended so as to allow for the review of the provisions of any agreements shown to infringe economic, social or cultural rights.

43. **Ms. Drillish** (GegenStrömung), addressing the issue of Germany's extraterritorial obligations in the context of export promotion, recommended that the German Government should adopt a legal basis for its export promotion schemes that clearly recognized the extraterritorial obligation to respect human rights and establish procedures for the assessment, reduction and prevention of risks concerning those rights, as well as monitoring and complaints mechanisms. She further recommended that the Government should, in accordance with its extraterritorial obligations deriving from the Covenant, support language in the Common Approaches on Environment and Officially Supported Export Credits establishing a human rights due diligence process for export credit agencies, in line with international human rights norms.

44. **Ms. Lust** (Aktion-GEN-Klage), deploring the growing use of genetically modified organisms (GMOs) in food production and agriculture, said that no effort had been made to take into account scientific opinion and the experiences of farmers, whose economic, social and cultural rights, as well as those of consumers across the world, had been violated. Moreover, food security had been put at risk. Her NGO requested the Committee to submit its concerns to the Government and to formulate relevant recommendations urging the Government to end such violations immediately forthwith.

#### *Russian Federation*

45. **Ms. Nechushkina** (L'auravetl'an Information and Education Network of Indigenous Peoples – LIENIP) said that the Russian Federation was home to 250,000 members of indigenous communities and that those groups were among the most marginalized in the country. The Ministry of Regional Development, the body with direct responsibility for indigenous peoples, had taken a number of financial measures to assist them. However, in order to encourage their economic integration, aid should be allocated on the basis of way of life (which should be truly traditional), rather than merely on the grounds of ethnicity. Those peoples' rights over their land and natural resources should be strengthened. Work was under way in that regard, but progress was slow and results varied from region to region.

46. **Mr. Payot** (International Federation for Human Rights – ADC Memorial) drew the Committee's attention to two vulnerable groups: migrants and homeless people. He called on the authorities of the Russian Federation to amend existing legislation and practices in order to guarantee respect for social and economic rights (in particular, those of migrants

and ethnic minorities) and to exercise strict control over private bodies so as to ensure that they respected the rights of migrant workers. With regard to homeless people, he requested the authorities of the Russian Federation to modernize the residency registration system and to put an end to discrimination against the country's homeless.

47. **Ms. Barahona Riera** requested further information on the problems of residency registration and the modernization process that had been requested. She also wished to know what the percentage of migrants was in the Russian Federation, where they originated, and the situation regarding people trafficking and trafficking networks. She would also be grateful for information on the legislation in force or in the pipeline on the protection of indigenous peoples' rights, as well as additional information on Moldova's abortion legislation.

*The meeting rose at 6.05 p.m.*