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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-third session

SUMMARY RECORD (PARTIAL)* OF THE 33rd MEETING

Held at the Palais Wilson, Geneva,

on Tuesday, 9 November 2004, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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Initial report of Malta (continued)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS (agenda item 6)

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

Initial report of Malta (continued) (E/1990/5/Add.58; E/C.12/Q/MLT/1)

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

The CHAIRPERSON invited the delegation to reply to the questions raised at the previous meeting.

Articles 10-12 of the Covenant

Mr. ZAMMIT (Malta), replying to a question on criminal responsibility, said that Maltese criminal law was a hybrid regime derived from Italian criminal law and English criminal procedure. A child under the age of 9 was presumed not to be criminally responsible. Children between 9 and 14 were also exempt from criminal responsibility unless it could be proved that a child acted with "mischievous discretion", i.e. in the knowledge that the act in question was wrong. But under the Criminal Code even such acts were not punishable by imprisonment but by a reprimand or admonition and in some cases by probation. Under the Probation Act, both responsibility and punishment were diminished by one or two degrees in the case of children aged between 14 and 18. Children under 16 did not appear before a criminal court but a special juvenile court.

Legislation to deal with domestic violence was currently being drafted. In the meantime, offences under that heading were covered by the Criminal Code. The district courts had formerly dealt with cases of domestic violence but such cases were now referred to a specialized criminal court, which also dealt with questions of maintenance in the event of legal separation of the spouses.

With regard to rape, there was an irrebuttable presumption that any sexual offence against a child under the age of 12 constituted rape with violence. The same rule was applicable to people with disabilities.

Although divorce was illegal in Malta, spouses had the option, in cases of marital breakdown, of applying for a decree of legal separation, which involved both physical and financial separation. The courts would consider such an application even where the sole ground cited was incompatibility. The courts also looked into such questions as maintenance, custody, access rights and separation of

estates. In cases where a Maltese living abroad obtained a divorce in the country in which he or she was resident, the divorce could be registered in Malta if the marriage had taken place there.

All persons evicted under urban development programmes were temporarily relocated and enjoyed priority for rehousing within the same area or in blocks of flats to be built under the

development schemes. Persons who lived in sub-standard social housing were asked to state their preferences for relocation. Nobody had ever been evicted before being provided with alternative accommodation.

Mr. GATT (Malta) said that victims of domestic violence were immediately offered assistance free of charge by APPOGG, a government agency which had a unit staffed by social workers and psychologists trained to deal with such cases. Residential assistance was also provided by the agency and two NGOs.

A bill to amend the provisions in the Civil Code regarding “illegitimate” children was currently before Parliament. The first and second readings had been completed. The bill abolished the existing definition of illegitimacy and addressed questions such as the inheritance and other rights of children born out of wedlock.

With regard to affirmative action in favour of persons with disabilities, an employment register had been compiled and a quota system introduced. If, for example, a small company or other entity employed 20 people, the twenty-first employee must be a person with a disability.

Ms. DALMAS (Malta) said that an amendment to the tobacco control regulations adopted in 2003 had prohibited smoking in all workplaces and other public places with effect from April 2004. Since 5 October 2004, smoking in most entertainment venues had also been prohibited. Malta was one of the first countries to have adopted such stringent regulations. Education and awareness campaigns (both nationwide and in schools) had been run by the Government’s Health Promotion Unit and eight “smoking cessation clinics”, targeted inter alia at teenage smokers, operated free of charge. A telephone helpline provided information to persons wishing to give up smoking. Sales of cigarettes and alcohol to persons under 18 was prohibited. Excessive alcohol consumption was a problem in Malta, including among young people, and the Department of Health Promotion had mounted intensive campaigns in 2003 and 2004 highlighting the dangers of drunk driving and directed particularly at the young.

Sex education, coordinated by specialized teachers, was provided in primary and secondary schools. In 2001, a clinic for sexually transmitted diseases had been established. A public health physician at the main hospital’s infection control unit provided information and support to AIDS patients and persons infected with HIV.

An action plan had been adopted to rehabilitate persons with mental disabilities and reintegrate them into the community.

Abortion was illegal and no statistical data were available on abortion in State and private hospitals. However, the gradual increase in the proportion of single mothers in Malta was possibly an indirect indicator of the decline in abortions. The fact that 17 per cent of all babies delivered annually were born to single mothers seemed to indicate that women could now rely on greater support in rearing children conceived outside marriage.

Mr. GATT (Malta) said that, pursuant to an amendment to the Social Security Act, where more than one person with a mental disability shared an apartment with a view to their reintegration into society, the individuals concerned were treated as separate households in terms of their entitlement to non-contributory social assistance and benefits.

Mr. BORG (Malta) said that although trafficking in women was not a major problem in Malta, the authorities were giving due attention to the phenomenon. The police had investigated two cases of trafficking for prostitution from two countries in 2004. A total of 13 persons had been charged. In one case the accused had been sentenced to three years’ imprisonment. The other cases were still being heard. The immigration police carefully scrutinized visa applications by persons from risk countries and a special police squad inspected places where suspected illegal activities took place with a view to curbing prostitution and any trafficking for that purpose.

Turning to environmental issues such as water and air quality, he said that water was a scarce and hence very precious resource in Malta. Moreover, with the increase in tourism, the demand for water had greatly increased. The Government had therefore taken vigorous action to ensure the availability of drinking water. Three reverse-osmosis plants using modern technology had been established and there were also numerous private reverse-osmosis plants. Every hotel had a small plant for the conversion of seawater. Although that was an expensive option, especially with rising energy costs, the quality of the water was good and there was sufficient for the population’s needs. A leak detection programme had also been introduced to monitor leaks from water supply mains.

Malta’s climate was such that close monitoring of air quality was essential. Dust and other particles were carried by winds from North Africa and the Sahara. With regard to the ozone layer and greenhouse gases, Malta was a party to the United Nations Framework Convention on Climate Change, and complied with the agreements reached under the Kyoto Protocol and with European Union (EU) air quality standards. The reports of existing air quality monitoring stations were made public and the EU would shortly be making arrangements for the opening of three new monitoring stations.

Mr. ZAMMIT (Malta) said that the housing authorities had introduced environmental policies aimed at promoting alternative sources of energy, inter alia because of the rise in fuel costs.

All forms of corporal punishment were prohibited and liable to criminal sanctions.

A home tuition service for children with special needs was provided by NGOs, with government assistance.

Mr. SADI said that the recognition of divorce obtained by Maltese citizens in other countries seemed to discriminate in favour of couples who could afford to establish residence abroad. The same could be said about abortion.

He asked whether there was any discernible link between the non-availability of divorce and domestic violence.

Ms. BARAHONA RIERA considered that the delegation's reply to the Committee's question about domestic violence had not been sufficiently detailed. She took it that the offence of domestic violence had not been characterized in the Criminal Code and that no specific

penalties were envisaged. Was there any provision for preventive measures such as orders to remove abusers from the household? If not, she recommended that they should be included in the legislation currently being drafted.

Mr. CEAUSU asked how many people had been rehoused following implementation of the urban development programmes.

Mr. KOLOSOV wished to know whether the Government's policy on water resources took into consideration the needs of households that had been obtaining water from illegal or unregistered wells.

Ms. BRAS GOMES reiterated her request for additional information on child abuse.

Mr. GRISSA asked what measures the State party had taken to maintain a balance between water supplies to residents and to tourist facilities.

Mr. ZAMMIT (Malta) said that couples who went abroad were obliged to establish their domicile in their new country. In order to do so, it was necessary to declare the reason for going abroad. People who went overseas purely to obtain a divorce therefore ran the risk of their intentions being discovered by the authorities, in which case the divorce would not be recognized in Malta.

There was no connection between the lack of legislation on divorce and domestic violence, since married couples were not obliged to live together. Under current legislation, Maltese courts banned abusive spouses from the marital home, where the abused partner was allowed to live with the children. New legislation on domestic violence was being drafted.

Under Maltese legislation, criminal action could be taken against any woman found to have had an abortion, even when the abortion had taken place abroad.

Mr. BORG (Malta) said that water was accessible to residents and tourists at all times, as a result of policies implemented by the Government. While most households extracted water for hygiene purposes from wells, all drinking water was supplied through taps. The use of run-off had been encouraged in farming, which should alleviate the problem of illegal or unregistered wells.

Mr. SADI asked what position the reporting State took on the issue of privatizing the water industry in order to increase efficient water use, and whether the International Monetary Fund (IMF) had encouraged such action.

Mr. BORG (Malta) replied that the Government was currently considering privatization of the State-owned Water Services Corporation; no decision had yet been reached. He had no knowledge of any IMF pressure to privatize.

Articles 13-15 of the Covenant

Mr. KERDOUN wondered whether responsibility for education, culture, youth and sport was not too much for one ministry. He asked whether school education was provided free of

charge to foreigners. Details of annual fees charged to foreigners for university education should be provided, and it should be made clear whether that requirement to pay constituted discrimination.

It would be useful to know whether English or the Maltese language was predominantly used in Malta, and whether the initial stages of primary education were conducted in Maltese.

Further details should be provided on tax rebates for parents whose children attended independent schools. It would be useful to have a full account of the different working conditions for teachers in public and private schools, and particularly statistics on salaries. It was difficult to understand why a system for collecting data on school drop-out rates had not been put in place.

Mr. MARCHÁN ROMERO asked what percentage of the national budget was made up by the 1.3 million liri spent on culture. The role of the Government in implementing article 15 (a) of the Covenant should be clarified, since the report suggested that the promotion of cultural activities was primarily in the hands of NGOs and private institutions. It would be interesting to hear the response of the State party to the statement contained in a report from the European Commission against Racism and Intolerance that the Maltese school curriculum lacked content relating to other cultures.

Mr. CEAUSU asked whether university education was provided in Maltese, or exclusively in English.

Mr. KOLOSOV asked whether all Maltese television channels were private, whether the programmes broadcast advocated respect for human rights, and whether there were programmes specially designed for children. It would be useful to learn what policy was implemented regarding the advertising of alcohol and tobacco. Did the broadcasting of foreign films on television affect children's behaviour?

He wondered whether the State party suffered from a brain drain, in terms of the children of wealthy families who were sent to the best Maltese schools and then on to universities in the United Kingdom. How many of those young people returned to Malta? It would be interesting to know how much such a private education would cost, and whether it was accessible to the majority of

families.

Mr. SADI said it was unclear whether non-citizens had the right to receive education, given that the Education Act referred to the right of citizens, unlike the Covenant, which provided for the right of everyone. Article 6 of the Education Act needed clarification, since it suggested that parents had the right to exercise control over the materials used for their children's education. The State party should indicate how religious education was provided to the small groups with religious or moral beliefs other than Roman Catholicism, as referred to in the State party's declaration under article 13.

Ms. BRAS GOMES asked whether the Government had changed its policy on pre-school education. Was it currently provided by the State or by private institutions?

Mr. BORG (Malta) said that the Ministry of Education was responsible for a large number of portfolios, including labour, because of limited human resources - a problem also faced by many other Maltese government departments. The Ministry of Education was no longer responsible for cultural issues, which now came within the purview of the Ministry for Tourism and Culture. Although foreign students were obliged to pay for schooling and higher education in Malta, tuition fees were considerably lower than in other European countries, and university scholarships were available to foreign students. Many foreign students chose to be educated in Malta, since tuition was offered in English, but the majority returned to their countries of origin after having completed their education. School fees paid by foreign pupils were used to develop and run education programmes.

Education was provided in both Maltese and English from the primary level. His Government considered it important to promote the use of Maltese, particularly among persons with dual citizenship. Parents who paid for private education for their children were charged a reduced rate of income tax, further information on which could be sent to the Committee if necessary. Teachers in the private and public sectors received equal salaries. Statistics on school dropout rates and on funding for cultural activities as a percentage of the national budget would be forwarded to the Committee in due course.

The Government and NGOs worked together to promote cultural rights. Malta had a rich cultural heritage, the preservation of which was considered to be particularly important, since the country's economy relied heavily on tourism. Cultural issues were the responsibility of the Ministry for Tourism and Culture, which worked in close cooperation with a large number of NGOs. Malta had a good record on the protection of ethnic groups and minorities, and further written information on cultural variety in education would be forwarded to the Committee. Although efforts were made to provide tuition in both English and Maltese in higher education, advanced teaching materials for certain subjects, especially mathematics and physics, were only available in English.

Malta had a wide range of private, public and religious television channels and radio stations. Several television channels advocated human rights protection and broadcast programmes on human rights issues. Television advertising of alcohol and tobacco products was prohibited. Although television had an influence on the behaviour of some children in Malta, as it did in many other countries, children's access to inappropriate programmes was the responsibility not only of television companies, but also of parents.

Turning to questions raised by Mr. Kolosov, he said that the question of Russian children who had completed their secondary education in Malta and wished to further their education in the United Kingdom was a matter for the Russian Federation alone. Efforts were being made to avoid the brain-drain problem by generating employment and encouraging Maltese nationals to participate in the country's economic, social and cultural development.

All the rights of non-citizens were protected in Malta. In the event that a non-citizen considered himself to have been a victim of discrimination, the question could be brought to the attention of the authorities, and action would be taken. Although members of religious minorities were not guaranteed religious education in school, it was provided in the majority of cases. In some schools staff were not available to teach minority religions, or it was financially impossible to run classes for only one or two children. Under such circumstances, the lack of religious education did not constitute discrimination against religious minorities, but was simply a factor beyond the Government's control. Other institutions, such as the mosque and Muslim schools, provided alternative sources of religious education. Religious education was not prohibited under any circumstances.

Ms. DALMAS (Malta) said that although compulsory schooling in Malta began at the age of 5, optional State-run pre-school education was provided free of charge for 3 and 4 year olds. There were also a number of private and religious pre-school education establishments. Although her delegation did not have any specific enrolment statistics at its disposal, a large proportion of children received pre-school education.

Mr. KERDOUN pointed out that the Maltese Government's written replies to the Committee's list of issues indicated that there were differences in the remuneration of teachers in the public and private sectors. He wished to know how great the differences were. He requested statistics on illiteracy, and asked whether all children had two mother tongues from birth, and whether Hebrew had any influence on the Maltese language.

Mr. BORG (Malta) said that the first language spoken by a child depended on the language predominantly spoken by his or her family. In the past, the majority of children had been raised speaking Maltese, but over recent years English had become very widespread. Statistics on languages in the home had never been collected. His Government was taking measures to eradicate illiteracy, and statistics on that subject could be forwarded to the Committee in due course. The Government's written replies to the Committee's list of issues had been compiled in 2001, and the delegation would therefore endeavour to obtain updated information on teachers' salaries. It was possible that Hebrew had an influence on Maltese, since they were both Semitic languages. Different variations of the Maltese language were spoken in different communities, such as Tunisian Maltese and Alexandrian Maltese.

The CHAIRPERSON said that further statistical information would be welcome, and that the Committee would like to receive more details on the Government's position with regard to the draft optional protocol to the Covenant.

Mr. BORG (Malta) thanked the Committee for its comments and interest in his country's initial report. The information it had

requested would be provided in written form as soon as possible.

The CHAIRPERSON thanked the delegation for its comprehensive replies to the Committee's questions, and encouraged the Government to take into consideration the Committee's General Comments in the drafting of its next periodic report.

The discussion covered in the summary record ended at 5.10 p.m.