



Economic and Social Council

Distr.: General
6 March 2015
English
Original: French

Committee on Economic, Social and Cultural Rights

Fifty-third session

Summary record of the 44th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 11 November 2014, at 3 p.m.

Chairperson: Mr. Dasgupta (Vice-Chairperson)

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fourth periodic report of Portugal (E/C.12/PRT/4; E/C.12/PRT/Q/4 and Add.1)

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

2. **Mr. Bárto** (Portugal) reaffirmed his country's commitment to the promotion and protection of human rights in all their forms. Portugal had recently been elected to serve a three-year term on the Human Rights Council and the Economic and Social Council. Pursuant to a recommendation made during its first universal periodic review in 2009, the Government had established a national human rights committee in 2010. The Ombudsman, in its capacity as national human rights institution, supported the Committee in its work, and the Committee maintained cooperative relations with civil society. Portugal was the main author of two resolutions adopted annually by the Human Rights Council – one on the exercise of economic, social and cultural rights and the other on the right to education. It had also been actively involved in the drafting of the Optional Protocol to the Covenant and had been one of the first 10 States to ratify it in January 2013.

3. Owing to the economic and financial crisis, the Government had adopted austerity measures that had affected the exercise of human rights, particularly economic, social and cultural rights. For the past three years, various programmes had been introduced to mitigate the social repercussions of such measures. For example, the Social Emergency Programme targeted families affected by unemployment, job insecurity and excessive debt. Several measures, focusing in particular on lifelong skills development and vocational training, had been implemented to combat youth unemployment, which was considered a top priority. The Government had sought to maintain acquired rights by guaranteeing, for example, the minimum pension entitlement. Regarding education, the Government continued to provide equal access to essentially free, quality education for all persons. The "Escolhas" programme, for example, specifically targeted children from vulnerable groups, notably children of migrants including migrants in an irregular situation, and Roma children. As for combating gender-based discrimination, the Government was allocating additional funds to the promotion of gender equality and the prevention of violence against women. Concerning migrants, the Government sought to promote their rights and facilitate their reception and integration, including through the adoption of a one-stop-shop approach. In the area of health, the level of service had remained the same, despite the crisis. The national health service continued to ensure universal access to essentially free, quality care. At the suggestion of the Office of the United Nations High Commissioner for Human Rights, the Government had devised national human rights indicators, including on the right to health and the right to education.

Articles 1 to 5 of the Covenant

4. **Mr. Kedzia** (Country Rapporteur) commended the State party for its contribution not only to the drafting of the Optional Protocol, but also to the promotion of its ratification and implementation. He noted that the report had been submitted late and expressed the hope that the State party would comply more strictly with submission deadlines in the future. He asked to what extent non-governmental organizations (NGOs) and, more broadly, civil society had been consulted on the report.

5. It was clear from reading the report that, although it did not fully document the follow-up given to the concluding observations made in 2000, they had in fact been acted upon. However, neither the report, nor the State party's replies to the list of issues, made

mention of a national human rights action plan, in spite of the fact that the Committee had urged the State party to adopt one in paragraph 17 of its concluding observations. He asked whether the State party had considered such an action plan to be superfluous in the light of existing programmes and strategies, or whether it intended to adopt one in the near future.

6. He considered that the various measures taken by the State party to combat the effects of the economic and financial crisis constituted good practices and enquired about their tangible results, particularly for vulnerable groups. He requested clarification on the current economic situation, particularly as to whether there were signs of an economic recovery, and, if so, whether the State party intended gradually to phase out austerity measures.

7. In paragraph 16 of its concluding observations in 2000, the Committee had urged the State party to review its general poverty reduction strategy and strengthen the measures taken to address that issue. It appeared that significant efforts had been made, particularly in favour of certain groups such as children, women and older persons. However, according to European Union statistics on income and living standards, 18.7 per cent of the Portuguese population had been at risk of poverty in 2012, signalling a deterioration in the situation which the Government attributed to the austerity measures that had been adopted. He asked the delegation to give its analysis of the effects of the austerity measures and to state whether there were any plans to renegotiate the adjustment programme imposed by the International Monetary Fund (IMF), the European Commission and the European Central Bank (ECB).

8. Portugal was one of the first countries to have defined and used indicators concerning the right to education and the right to health, in accordance with the guidelines of the Office of the United Nations High Commissioner for Human Rights. It would be useful to make an initial appraisal of the value of those indicators in assessing the implementation of those rights and to address any gaps. That information might also be of interest to other countries.

9. Furthermore, he asked whether the provisions of the Covenant could be directly invoked before the courts; whether the national treatment principle contained in the Constitution, according to which foreigners, stateless persons and European Union nationals visiting or residing in Portugal enjoyed the same rights and were bound by the same duties as Portuguese citizens, replaced the human-rights based approach advocated by the Covenant, and whether the State party had adopted or planned to adopt a comprehensive anti-discrimination law. He also wished to know why the State party had failed to ratify Protocol No. 12 to the European Convention on Human Rights. He requested additional information on the one-stop-shop approach applied to migrants and its results.

10. **Mr. Atangana** asked the delegation to provide examples of case law related to the Covenant.

11. **Mr. Abashidze** asked whether the economic and financial crisis had had an irreversible effect in certain areas. He requested further information on the way in which the State party had managed to reconcile the recommendations of international financial institutions with the maintenance of acquired rights. He wished to know whether the State party was able to grant social assistance to non-nationals.

12. **Ms. Shin** asked whether the financial crisis had limited NGOs' capacity for action, given that the Committee had received only a few NGO submissions. She wished to know whether the impact of the crisis and of austerity measures on gender equality had been evaluated.

13. **Mr. Shrijver** noted that, despite the financial crisis and its very high rate of unemployment, Portugal remained a developed country and was therefore required to

devote 0.7 per cent of its gross national product (GNP) to official development assistance (ODA). He wished to know what percentage of the country's GNP was currently allocated to ODA and whether achievement of the 0.7 per cent target could be expected in the near future.

14. **Mr. Sadi** asked whether less severe and less painful austerity measures could have been adopted. He enquired about the impact of the accompanying mitigation measures and whether they could be extended to the entire population, given that they seemed to benefit only the most vulnerable groups. He also asked the delegation, if possible to provide the preliminary results of the Social Emergency Programme launched in 2011. Regarding examples of jurisprudence, it would be useful for the delegation to specify how much attention was paid to the Committee's general comments in the interpretation of the Covenant. Lastly, he asked about the results of measures taken on behalf of the Roma community.

15. **Mr. Shrijver** requested updated information on the unemployment rate and wished to know why unemployment primarily affected young persons. He noted that, in the long term, that problem would have a negative impact on the pensions of those persons who were currently unemployed, which was of particular concern. He also asked what criteria were used to define the poverty line and what the current threshold was.

16. **Mr. Ribeiro Leão** asked what public policies had been adopted by the State party to ensure that workers, especially those with young children, could reconcile their private and professional lives. He requested further information on the concrete results of the measures described in paragraph 64 of the report, in particular the "Inserjovem" and "Reage" initiatives and the programme for young unemployed persons aged between 15 and 22.

17. **Mr. Martynov** asked whether the State party had adopted the Council of the European Union Youth Guarantee Recommendation of 22 April 2013, which aimed to promote youth employment. He wished to know whether the overall improvement in unemployment figures had been due in part to the increase in temporary and part-time work, whether the minimum wage had remained at the level established in 2011, namely €500, or whether it had since been adjusted, and what percentage of employees had received the minimum wage in 2013 and 2014.

18. The delegation should state whether the indicator for social support was still set at €419 or whether it had increased since 2010. Noting that 19 per cent of retirees would be at risk of poverty and 40 per cent of retirement pensions were drawn by the richest 5 per cent of retirees, he asked whether the State party intended to correct that serious imbalance.

19. **Mr. Kedzia** (Country Rapporteur), noting that, according to estimates, informal sector activities accounted for 20 per cent of gross domestic product (GDP), asked whether the State party recognized the need for more effective labour inspections. Noting with concern the considerable drop in the number of employees covered by a collective agreement since 2008, he asked the delegation to provide further information in that regard.

20. **Mr. Santos Pais** (Portugal) said that the Covenant formed an integral part of domestic law and all persons residing in Portugal, including foreigners and stateless persons, could accordingly invoke it directly before the courts. Although in practice the Covenant was cited less than the Constitution, that was because the Constitution covered a wide range of civil and political rights, in addition to economic, social and economic rights.

21. **Mr. Maio** (Portugal) said that Portugal, like the rest of Europe, had felt the full force of the financial crisis and the subprime mortgage crisis, and had incurred a record level of debt. The Government had taken remedial measures within the framework of the IMF and ECB structural adjustment programme, which had been designed to consolidate the budget, ensure financial stability, guarantee sustainable growth and create jobs. Despite a fall in

GDP, the Government had managed to increase social security benefits in 2013. The Portuguese economy had therefore been revitalized, the trade balance had shifted into a surplus, and the debt spiral had been brought under control. The unemployment rate had fallen from 17.5 per cent to 13.1 per cent between the first and third quarter of 2014, which represented a decrease of 4.4 per cent over six months. GDP was increasing and growth was expected to reach 1 per cent in 2014 and 1.4 per cent in 2015. It was hoped that the austerity measures would only be temporary, but it was difficult to predict how long they would need to remain in place. In any event, the Government would ensure that the most disadvantaged groups did not suffer.

22. **Ms. Ávila** (Portugal) said that the National Human Rights Committee participated in the preparation of all the country's reports to the United Nations treaty bodies and the Human Rights Council. Civil society was widely consulted at the national level and had been strongly encouraged to travel to Geneva to attend the meeting devoted to review of the country's fourth periodic report.

23. The Government did not intend to adopt a comprehensive human rights action plan and had instead opted for sectoral-based action plans to cover areas as diverse as gender equality, the fight against human trafficking and domestic violence, the elimination of female genital mutilation and Roma integration.

24. **Ms. Pereira** (Portugal) said that the four-year Social Emergency Programme aimed to mitigate the effects of the economic and financial crisis on the most vulnerable groups and primarily focused on low-income households, the elderly and persons with disabilities. The benefits paid to households with dependent children, or two unemployed parents, had increased by 10 per cent. Social housing and school meal programmes had also been introduced. An overall assessment of those initiatives had yet to be conducted.

25. **Ms. Costa** (Portugal) said that the Government had devised indicators for education in order to strengthen enforcement of the right to education.

26. **Ms. Pereira** (Portugal) said that the new indicators for health would provide an accurate picture of the causes of death.

27. **Ms. Ávila** (Portugal) said that indicators had already been developed for sexual and reproductive health, and that additional indicators should also be established in order to gain a better understanding of the realization of the right to housing and the right to non-discrimination.

28. **Ms. Ribeiro** (Portugal) said that the principle of non-discrimination was enshrined in basic law, insofar as article 13 of the Constitution prohibited discrimination on the grounds of, *inter alia*, age, gender and religion. That principle was also reflected in other legal texts, such as the Labour Code, which prohibited discrimination in access to employment. The Government had introduced a one-stop-shop approach in 2004 in order to simplify the administrative requirements applicable to migrants, many of whom did not speak Portuguese. Located in a building in which all relevant services were housed, the one-stop-shop had its own database managed by the High Commission for Integration, which was accessible to the seven ministries that dealt with immigration matters. Through partnerships with civil society, mediators from migrant communities to serve as links between the communities concerned and the administrative authorities, informing the latter of the problems faced by migrants and making migrants aware of their rights and the rules they had to observe. The International Organization for Migration had already conducted three separate assessments of the one-stop-shop services and had found a particularly high level of satisfaction among beneficiaries, with a 92 per cent approval rating.

29. **Ms. Ávila** (Portugal) said that many NGOs focused actively on economic, social and cultural rights, and that the process of ratification of Protocol No. 12 to the European Convention on Human Rights would be concluded shortly.

30. **Ms. Ribeiro** (Portugal) said that regular assessments of the impact on gender equality of the measures imposed by the European Commission, the ECB and the IMF had been conducted since 2005, which had led to the adoption of additional measures to promote and raise awareness of the issue of equality and to encourage the employment of women without university qualifications.

31. **Mr. Bárto** (Portugal) said that the country currently spent 0.31 per cent of its gross national product on official development assistance, although it had long sought to achieve the target of 0.7 per cent. The new development cooperation strategy focused on the Portuguese-speaking African countries and Timor-Leste. Non-earmarked assistance was provided, with a particular emphasis on economic, social and cultural rights.

32. **Mr. Santos Pais** (Portugal) stressed that human rights, including those covered by the Covenant, formed an integral part of all cooperation projects.

33. **Mr. Bárto** (Portugal) pointed out that all countries benefiting from cooperation projects with Portugal had abolished the death penalty.

34. **Ms. Serem** (Portugal) said that the results of Portugal's National Strategy for the Integration of Homeless People (2009–2015) had yet to be assessed; under the strategy, the 11 participating ministries provided assistance to the persons concerned.

35. **Mr. Santos Pais** (Portugal) said that the austerity measures, some of which the Constitutional Court had found to be unconstitutional, had affected the entire population. Children were full members of society and were entitled to full protection.

36. **Ms. de Castello-Branco** (Portugal) said that an entire section of the Constitution was devoted to economic, social and cultural rights. The delegation would provide the Committee with written details of cases in which the Covenant had been invoked by the courts.

37. **Ms. Reis Oliveira** (Portugal) said that most Roma had Portuguese nationality and therefore benefited from all social measures. An office to support the Roma community had been established in 2007 so as to facilitate relations with the local authorities. Awareness-raising and training activities had also been conducted for the benefit of journalists, the police and the authorities. An observatory for the Roma community had been set up in order to facilitate Roma integration.

Articles 10 to 12 of the Covenant

38. **Mr. Atangana** asked whether corporal punishment in families remained an issue.

39. **Ms. Shin** asked the delegation to specify the measures taken to inform boys and men about the dangers of domestic violence and educate them about reproductive health.

40. **Mr. Ribeiro Leão**, referring to paragraph 180 of the report, asked the delegation to provide updated information on the effects of the three main priorities under the National Action Plan for Inclusion on the fight against poverty.

41. **Mr. Pillay** requested disaggregated data on the results of poverty reduction measures and information on the policies adopted to protect marginalized and vulnerable groups. He enquired about measures taken to provide access to adequate housing and basic services, including sanitation, for Roma living in slums. He also enquired whether measures had been taken to stem the increase in forced evictions.

42. **Mr. Kedzia** (Country Rapporteur) asked whether the Property Investment Fund for Rental Housing, referred to in the State party's written replies to the list of issues, guaranteed the right of former owners to remain in the dwellings they had occupied before the crisis and whether access to basic health care was still guaranteed to undocumented migrants despite the crisis.

Articles 13 to 15

43. **Mr. Mancisidor** requested further information on the significant reduction in the education budget compared to GDP and public spending. He asked whether measures were planned to reduce the number of young persons not in employment or education. He regretted the lack of detailed, disaggregated information on the exercise of cultural rights. He welcomed the fact that the Organisation for Economic Co-operation and Development had ranked Portugal first in terms of the percentage of women in research.

44. **Mr. Marchán Romero** welcomed the introduction of the mediation strategy designed to promote the inclusion of persons of foreign origin in the public sector, and requested further information on ethnic groups in Portugal.

45. **Mr. Kedzia** (Country Rapporteur) asked whether the arbitration committees and special courts considering intellectual property cases applied a human-rights based approach. He commanded the information and communication technologies initiative and the *TIC & Sociedade* network, which enabled disadvantaged groups to learn how to use the Internet.

46. **Ms. Severinio** (Portugal) said that the employment rate had fallen since the first quarter of 2014 following the implementation of job creation policies. A programme facilitating the entry of young persons into the labour market, in particular through vocational training, had been launched in 2012, and had helped many young persons to secure their first job more easily. Several programmes focusing on employability had enabled 70 per cent of beneficiaries to find a job within six months, often with the companies that had trained them. The Government was implementing the European youth guarantee initiative, which was designed to combat youth unemployment by offering quality jobs to all persons under 25 within four months following the end of their studies or the loss of their job, regardless of whether they were registered as unemployed. The authorities were currently working with civil society to compile a register of all the young persons concerned and to devise a customizable strategy applicable to all cases, given that there was no single solution to the issue.

The meeting rose at 6 p.m.