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Economic Distr.GENERAL
and
Social
Council Original: ENGLISH

E/C.12/2004/SR.1410

May 2004

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-second session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,

on Tuesday, 4 May 2004, at 3 p.m.

Chairperson: Mr. MARCHÁN ROMERO

(Vice-Chairperson)

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In the absence of Ms. Bonoan-Dandan, Mr. Marchán Romero (Vice-Chairperson) took the Chair.

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

CONSIDERATION OF REPORTS (continued)

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

Fourth periodic report of Spain (continued) (E/C.12/4/Add.11; E/C.12/Q/ESP/2; CESCR/NONE/2003/12; HRI/CORE/1/Add.2/Rev.2)

At the invitation of the Chairperson, Ms. Chamarro Ramos, Mr. Cisneros García, Mr. de Arístegui Laborde, Mr. Fernández López, Mr. Gomá, Ms. González Alonso, Mr. González García, Mr. González Castro, Ms. Paíno, Ms. Puyó Marín and Mr. Pérez Villanueva y Tovar (Spain) took places at the Committee table.

Mr. SADI asked whether the Government intended to take any measures to ensure that trafficking in women from Eastern Europe for prostitution and exploitation did not increase as a result of the recent enlargement of the European Union. He would also like to know what measures were being taken to protect the economic, social and cultural rights of Spain's ever-growing elderly population.

The CHAIRPERSON invited the delegation to reply to Mr. Sadi's question and to those raised at the previous meeting.

Mr. de ARÍSTEGUI LABORDE (Spain) said that retail opening hours were regulated at the autonomous community level. However, small shops throughout Spain had recently been allowed to open on Sundays as part of an effort to balance the market share more equally between large and small retail establishments.

Mr. CISNEROS GARCÍA (Spain) said that the Ministry of Education, Culture and Sport had identified a number of best practices in the successful integration of immigrants by adopting a national scheme under which financial awards were made to educational establishments that designed programmes to provide education for pupils from ethnic minorities and other disadvantaged groups who were at risk of being excluded.

Mr. PÉREZ VILLANUEVA y TOVAR (Spain), replying to question 16 in the list of issues, said that article 27 of the Workers'

Statute established that the Government, in consultation with representatives of employers' associations and trade unions, was responsible for fixing the level of the minimum wage and for reviewing that level every six months. The consumer price index was one of the criteria taken into account.

Mr. FERNÁNDEZ LÓPEZ (Spain) said that the Workers' Statute established that the maximum duration of the ordinary working week was 40 hours. However, collective bargaining agreements tended to provide for shorter working hours. The law allowed workers to accept a maximum of 80 hours of overtime per annum in exchange for remuneration or days off. Failure to comply with the regulations governing working hours and overtime was a serious offence.

Although it had slightly declined over the past decade, the rate of temporary employment in Spain continued to be among the highest in Europe, with approximately one third of all workers being employed on a temporary basis. That could be attributed largely to the dominance of the tourist industry and seasonal work in the Spanish economy. However, a number of measures had been adopted to promote secure employment. For instance, legislation had been introduced providing incentives for the conversion of temporary employment contracts into permanent ones. The Government would continue to attach priority attention to the issue. The level of part-time work in Spain was lower than the European average.

According to a 1999 survey, just over 3.5 million people in Spain had registered some kind of disability. Approximately a quarter of those received disability benefits from the social security system. The rate of employment of disabled workers was estimated at 28 per cent. A number of measures had been taken under national plans on action for employment and social inclusion and an agreement had been signed between the Ministry of Labour and Social Affairs and the Spanish Council of Disabled Representatives to increase employment opportunities for disabled persons. For instance, there had been an increase in the financial incentives offered to employers who offered contracts to disabled workers and efforts had been made to increase the opportunities for home-based work.

In order to provide better care for its growing population of elderly people, Spain had adopted a national plan of action for the elderly for the period 2003-2007, based on the conclusions adopted at the Second World Assembly on Ageing held in Madrid in 2002. Under the plan, measures were being taken to increase pensions and to respond more effectively to the day-to-day needs of the elderly. The efforts reflected the Government's commitment to develop a national system for protecting dependent persons at the State, autonomous community and municipal levels.

Mr. PÉREZ VILLANUEVA y TOVAR (Spain), referring to the environmental disaster caused by the sinking of the Prestige oil tanker off the Galician coast in 2002, said the attitude of the Spanish people towards environmental degradation was one of zero tolerance. Spain applied some of the strictest environmental regulations in Europe and devoted particular attention to the implementation of the directives of the European Environment Agency. Environmental issues were very much in the foreground of discussions in Parliament. All matters relating to the environment were overseen by the Ministry of the Environment.

Ms. GONZÁLEZ ALONSO (Spain) said that a survey conducted among the people who had assisted with the clean-up operation following the Prestige disaster had revealed that, of the 270,207 people involved, 1,627 had required medical care. A follow-up survey carried out six months after the disaster had indicated that none of the medical conditions suffered by those victims had been irreversible. Furthermore, three epidemiological studies were being conducted to monitor the medium- and long-term effects of the disaster on both the clean-up workers and the people living in the affected region. Particular attention was being paid to the psychological effects of the disaster and its impact on reproductive health.

Spain's public health infrastructure was designed on the basis of population distribution. It was also designed to ensure that no person lived more than 30 minutes away from a health centre. Some problems were encountered, however, in certain remote and mountainous regions, particularly during the inclement winter months. There were currently 2,889 health centres throughout Spain and 783 hospitals. The health centres were staffed by teams of individuals who had received special training from health-care professionals. The doctor to patient ratio was currently 1:448; almost 38 per cent of doctors were women.

All Spanish citizens were legally entitled to basic sexual and reproductive health services, including family planning, assisted reproduction programmes and treatment for sexually transmitted diseases. Abortion, however, was prohibited under the Penal Code in all but three exceptional cases. A working group had been established within the Government to address the question of adolescent health, which was of particular concern.

As a result of joint efforts by the Government and the United Nations Children's Fund (UNICEF), breastfeeding rates had increased in recent years. Furthermore, Spain had adopted the Baby-Friendly Hospital Initiative, which was an international programme designed by the World Health Organization (WHO) and UNICEF aimed at recognizing hospitals that provided an optimal environment for breastfeeding.

The Government was concerned about the problem of alcohol and tobacco addiction, in particular among young people and women. In Spain, smokers made up 34.4 per cent of the adult population. The Government was in the process of ratifying the World Health Organization Framework Convention on Tobacco Control. In 2003 a national plan of action for the prevention and control of tobacco use had been approved. The plan was designed to discourage the use of tobacco and protect the population against passive smoking. A number of laws restricted the sale of tobacco and encouraged the creation of smoke-free areas. A bill had been drawn up increasing to 18 the minimum age for buying tobacco products. Efforts had also been made to prohibit smoking at work. To that end, employers were being encouraged to establish smoking areas, provided that such areas were isolated, clearly marked and ventilated. In addition, the Government had signed a European Union directive banning tobacco advertising, sponsorship and promotion, and would incorporate it into the country's legislation in the near future.

Ms. CHAMARRO RAMOS (Spain) said that the Government recognized the need to improve its programmes on the prevention of sexually transmitted diseases; programmes to combat HIV/AIDS would be given priority.

The Government attached particular importance to sex education in schools and universities. A number of activities promoting sexual health, including information campaigns and theatre plays, had been conducted in cooperation with youth councils. Steps had been taken to facilitate access to condoms by subsidizing their sale and putting condom machines in places where young people met.

With regard to drug abuse, while there had been a sharp drop in heroine consumption and the number of deaths resulting from it, more young people were using cannabis, cocaine and amphetamines. Several plans and programmes had been introduced to deal with the problem of drug abuse in general, including a national plan for the prevention of drug abuse and sexually transmitted diseases, a preventive programme for young people aged 14 to 16, and a programme to promote drugs-free leisure for young people.

A range of measures had been adopted to prevent the spread of sexually transmitted diseases among drug users, including the establishment of over 15,000 syringe exchange points. As a result there had been a 70 per cent decrease in the number of AIDS cases overall, with a 7 per cent decrease in the number of prisoners with HIV/AIDS. Health professionals and other members of civil society had made a significant contribution to efforts to combat AIDS and other sexually transmitted diseases.

Mr. PÉREZ VILLANUEVA y TOVAR (Spain) acknowledged that trafficking in women for the purpose of prostitution was a real problem in the country. The Spanish authorities were making every effort to combat trafficking, which risked becoming even more widespread owing to the difference between living standards in Central and Eastern Europe and Western Europe. In his view, the expansion of the European Union would not exacerbate the problem of trafficking in women.

He regretted that no data concerning maltreatment of women had been provided but said that the phenomenon was unacceptable in all cases, regardless of the victim's nationality.

Mr. GOMÁ (Spain) said that the Organization Act on rights and freedoms of foreigners applied to victims of trafficking in illegal immigrants; the authorities made every effort to break up trafficking networks.

Foreigners were not prohibited from buying or renting houses; neither citizens nor foreigners received any subsidies from the Government for those purposes.

Although in the past Spanish authorities had had to deal with a large number of unaccompanied Moroccan children entering the country, that was no longer the case. However, Moroccan children found on Spanish territory and handed over to the Moroccan authorities had not been left without protection as Morocco had ratified the Convention on the Rights of the Child. There was an obligation to reunite children with their families.

Under article 155 of the Penal Code, parents, in exercising their authority, could correct their children reasonably and in moderation. "Correcting" a child implied doing so by means of education, explanation or persuasion. It did not mean "punishing" the child. Perhaps the wording of the article should be changed.

Ms. PUYÓ MARÍN (Spain) said that foreign minors were granted the same rights as Spanish minors. There were no detention centres for minors; rather, centres for the care and protection of minors had been set up. The centres provided unaccompanied minors with education and training. Children at the centres were asked to produce a residence permit. In many cases it came to light that children had been sent to Spain by their families or had run away. In dealing with the children the authorities acted in the best interest of each child, in accordance with the Convention on the Rights of the Child. If it was appropriate to return the child to his or her family, the authorities did so. However, if that was not the case, other measures were taken to accommodate and protect the child.

Ms. PAÍNO (Spain) said that in 1999, a law on the reconciliation of family and working life had been adopted. As a result, the number of fathers taking paternity leave had doubled over the past two years. A number of awareness-raising campaigns had been conducted to encourage couples to share domestic work and childcare.

Mothers could take paid maternity leave for up to 16 weeks for their first child, a period which could be extended by two weeks for each subsequent child. There was also a possibility of taking unpaid leave for up to three months.

Several laws on domestic violence had been adopted; judges would issue a protection order for victims, or order the provision of financial assistance.

A bill on gender violence would be submitted to Parliament in the near future. Another bill currently being drafted focused on the need to provide schools and universities with educational material on gender violence and the integration of victims into society.

Mr. GONZÁLEZ GARCÍA (Spain) said that, although there was no shortage of houses in the country, housing distribution posed a serious problem, in particular for low-income groups. Spanish legislation made no distinction between immigrants and nationals and, in order to avoid ghettos, no special housing was created for particular groups of people, such as gypsies or immigrants.

The Constitution granted all Spaniards the right to adequate housing; however, expenditure on housing was inadequate and there was a definite housing shortage. While statistics indicated that 13 per cent of Spanish residences were unoccupied, confusion reigned over what constituted an unoccupied residence. It was not clear, for example, if vacation homes and properties belonging to foreigners should be so defined. Both positive and negative measures had been taken to address the problem of the housing shortage, and, beginning in 2002, there had been a significant increase in the housing supply. The positive measures included promoting the sale or rental of existing properties and encouraging new construction. Among the negative measures was a law that permitted local Governments to increase property taxes on unoccupied housing. The restrictions on selling real estate to foreigners, which had previously been imposed for reasons of national defence, had been lifted.

Referring to a question concerning the harassment of tenants, he noted that rental agreements were private contracts between individuals with potentially differing interests, which was where part of the problem lay. The other part of the problem was that during

the eight-year transitional period following the adoption of Act No. 29 on tenancy in urban areas, tenants who had not wished to pay higher rents had been required to move out. The Act facilitated the eviction of tenants who did not meet their commitments, in contrast to previous laws that had favoured tenants. The number of disputes over rental agreements had recently decreased.

In order to give effect to constitutional provisions relating to housing, the new Government had established a Ministry of Housing. It had also implemented a programme to construct 60,000 new housing units, had drafted a plan to introduce the concept of waiting lists, and was in the process of setting up a public rental agency. Moreover, the new Government had committed to making all public land available to the Ministry of Housing and to developers, and a new business confederation had been established and given responsibility for preparing the sites in question for residential development.

Mr. KOLOSOV said that, in keeping with the rights-based approach to education described in the Covenant and in the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education, Spanish legislation concerning education should provide for free and compulsory education for all children, not only Spaniards.

He asked why the illiteracy rate among the adult population was twice as high for women as for men. Previous explanations provided by the delegation were not entirely satisfactory. The high dropout rates and absenteeism levels among schoolchildren were also cause for concern, as well as the education-related problems experienced by children of migrant workers. He would welcome it if the delegation could comment.

Mr. GRISSA said that the report (E/C.12/4/Add.11, paras. 450 and 452) referred to the availability of free and compulsory education until age 16. In practice, however, there was frequently a gap between promise and performance, as enforcing compulsory education was a difficult task. In that connection it would be useful to learn about regional differences in education coverage and receive clarification as to what happened to children who did not succeed or who dropped out.

The report revealed considerable regional variations in employment and income levels. A breakdown of education coverage by region would be useful, as there was a causal link between income and unemployment on the one hand and education on the other.

Ms. BARAHONA RIERA said that the protection of intellectual property, particularly in the field of drug development and genetically engineered foods, was a contentious issue. A number of developing countries were pushing for greater flexibility on international agreements governing patent rights so as to guarantee, *inter alia*, access to generic medicines. It would be interesting to learn of Spain's position on the issue.

Mr. CISNEROS GARCÍA (Spain) informed the Committee that the Government had recently proposed a number of reforms, to be agreed with the autonomous communities, to the Education Quality Organization Act. The reforms would be phased in gradually. The Act would be suspended for two years starting in May 2004. Final adoption of the new legislation was planned for November 2005 with a view to full implementation by 2006.

Under the reform, attendance at compulsory classes on religion would be optional, and the grades received could not be used as a basis for passing, for grant applications or for access to university. The importance of religious education in the curriculum was to be reduced with a view to encouraging diversity. The baccalaureate exam and the university entry exam were to be replaced by a combined examination.

The right to education was a fundamental right granted to Spaniards and foreigners alike, regardless of their legal status. The relevant provisions were contained in article 1 of the Organization Act No. 8/1985 regulating the right to education.

In its written replies, the delegation had provided detailed information on measures that had been taken to close the gap between male and female illiteracy rates. As that information was considered unsatisfactory, he asked for clarification as to the additional data required. In that connection, he stressed that illiteracy rates in Spain were very low.

Education was compulsory for all children in Spain. In practice statistics showed that 98 per cent of children aged 3 to 6 received pre-school education; the enrolment rate for children aged 6 to 16 stood at 100 per cent.

Mr. GONZÁLEZ CASTRO (Spain) said that free and compulsory education was guaranteed in article 27 of the Constitution; the relevant provisions were contained in the legislation governing education. The Spanish education system provided equal access to education for Spaniards and foreigners, and certain provisions went as far as applying the principle of positive discrimination in favour of children of immigrants. In order to facilitate the integration of foreign children into Spanish society, they received free and compulsory education until the age of 18, compared to 16 for Spanish children.

Although it was impossible to eliminate school dropout entirely, and Spain was no different from other developed countries in that regard, attendance levels were very high and the education authorities made every effort to enforce compulsory education. However, should absenteeism occur once the child had completed compulsory education, the State had no means of enforcing attendance.

In cases where children failed to complete compulsory education successfully, the State provided second-chance education.

Mr. CISNEROS GARCÍA (Spain) said that, owing to important changes after the last elections, the reply to the question on the protection of intellectual property required consultation with the new Ministry of Culture. The delegation would provide the requested information without delay.

Mr. PÉREZ VILLANUEVA y TOVAR (Spain) said that policies relating to intellectual property rights were adopted at the European level and the European Union member States adopted a common position.

However, Spain attached particular importance to increasing flexibility in legislation governing patent rights with a view to facilitating access to generic medicines. Legislative measures taken at the national level to reduce the number of brand-name medications in

favour of generic medicines showed the Government's commitment in that regard.

Mr. de ARÍSTEGUI LABORDE (Spain) said that, while the figures on relative poverty rates were correct, the phenomenon was not exclusive to Spain, but affected Europe as a whole. Measures had been taken at the national and European levels to address the problem and the decline in relative poverty rates in recent years was reason to be optimistic.

Statistics revealed strong regional imbalances in Spain. Those regional disparities were disappearing gradually and the second national plan of action for social inclusion for 2003-2005 contained a series of relevant provisions.

Mr. PÉREZ VILLANUEVA y TOVAR (Spain) said Spain was an active young democracy endowed with one of the most advanced, progressive and protective legal systems in Europe. His Government was committed to the progressive implementation of the Covenant rights and would take the Committee's concerns and recommendations very seriously.

Spain was a leader in devising policies in response to the major socio-economic challenges posed by immigration. However, legislation governing the implementation of the Covenant rights for foreigners needed to be seen within the wider context of the Government's commitment to guaranteeing those rights for all persons under its jurisdiction.

The CHAIRPERSON thanked the Spanish delegation for its high-quality report and the open and constructive dialogue with the Committee.

The meeting rose at 5.10 p.m.