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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 45th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 15 November 2006, at 10 a.m.

Chairperson: Mr. KERDOUN (Vice-Chairperson)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

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

Initial report of Albania (E/1990/5/Add.67; E/C.12/Q/ALB/1 and Add.1; HRI/CORE/1/Add.124)

1. At the invitation of the Chairperson, the members of the delegation of Albania took places at the Committee table.

2. Mr. HOXHA (Albania) said that since the Covenant had come into force in Albania in 1992, the country had undergone tremendous change and the human rights situation had improved immeasurably. There had, however, been periods of instability and crisis in the economic, political and social fields, which had understandably influenced the State party's capacity to fully meet its obligations. The delay in reporting to the Committee was due to the lack of reporting capacities and inexperience in the reporting process, and a relatively large number of reporting obligations under other instruments.

3. International law constituted an important part of the country's legal system. Under article 122 of the Constitution, any ratified international agreement became part of the internal legal system following its publication in the Official Gazette. International treaties were directly applicable, unless they were self-applicable or required the enactment of a law. In the event of incompatibility between an international treaty and domestic law, the former prevailed.

4. The instruments adopted by the Government to ensure the full exercise of the rights under the Covenant included the Labour Code and the 2004 Gender Equality Act, which provided that employers, in both the public and private sectors, must respect the principle of equal pay for work of equal value for men and women. Labour legislation provided special protective measures for pregnant and breastfeeding workers. Government financial support promoted the employment of women, particularly disadvantaged women, including victims of trafficking, Roma women, disabled persons and divorced women with social problems. Further measures were expected in 2007 to promote equal participation of men and women in decision-making processes, to address acts of violence and trafficking on account of gender, and to combat gender stereotypes.

5. A series of measures had been adopted, involving national and international organizations, to ensure the right to an adequate standard of living. Central and local government authorities had cooperated closely with the World Food Programme (WFP) to provide food aid to specific groups experiencing difficulties in accessing food. Various ministries, in cooperation with the United Nations Children's Fund (UNICEF), had developed a healthy nutrition programme for primary schoolchildren. Educational awareness campaigns had been conducted in the mass media, and training activities were under way for teachers.

6. The Ministry of Health had taken various measures with a view to guaranteeing the right to physical and mental health, including launching five national strategies in the area of health. In particular, the national strategy for the prevention of HIV/AIDS placed special emphasis on raising awareness of the infection among the general population, and results to date had been very encouraging.

7. The Government shared the view of the United Nations High Commissioner for Human Rights that poverty was the most serious widespread human rights violation, denying millions of people the enjoyment of their civil, cultural, economic, political and social rights. Together with nine other countries, Albania had presented a draft decision on human rights and extreme poverty during the second session of the Human Rights Council. The draft proposed to request the Office of the High Commissioner to circulate the draft guiding principles "Extreme poverty and human rights: the rights of the poor", adopted by the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-eighth session, to States and all relevant stakeholders for comment.

8. Ms. BALILI (Albania) said that although Albania had laid the foundations of a market-based economy, created democratic institutions and gradually built capacity in public administration since economic and political transition in the early 1990s, widespread poverty, high unemployment, wide regional disparities and corruption remained major challenges. Future membership of the European Union (EU) remained an overarching long-term goal, and the recent signing of the Stabilization and Association Agreement had been a positive step in that direction.

9. The Government strongly believed that the performance of the education sector was the key determinant of Albania's future economic growth, equity, poverty reduction and democratic citizenship. As participation in education was increasing, quality and equity remained key issues. Albania's educational results were poor, particularly when measured against labour market needs and achievements in other countries in the region with which Albania's labour force needed to compete.

10. One of the main challenges in the education sector was to develop a system and institutions which would prepare school graduates to function effectively in different labour markets, become democratic citizens, and contribute to strengthening Albania's competitiveness. To that end, the Government had adopted the National Strategy of Development of Pre-University Education 2004-2015. The Strategy's priority areas were reforming and strengthening management capacity, improving the quality of the teaching and learning processes, financing pre-university education, and capacity-building and human resource development. A plan for higher education institutions had also been drafted.

11. The Government had increased the education budget to over 5 per cent of gross domestic product (GDP). Furthermore, it had pledged to almost double the salary of teachers, and in the 2005 budget there had been a 26 per cent increase. The Ministry of Education and Science, in collaboration with partners, had prioritized reform activities, set medium-term and annual targets, developed detailed implementation plans for 2007 and clarified the accountability and responsibility framework. The reforms undertaken by the Ministry included the State Matura system, liberalization of the school textbook market, and subsidizing textbooks at upper

secondary level for students from low-income families and rural areas. The Education Excellence and Equity Project supported the implementation of the Strategy's priorities for the period 2006-2010 through a specific investment loan using a sector-wide approach. The project's priorities included improving and rationalizing education infrastructure and setting the stage for higher education reform.

12. Mr. ATANGANA expressed concern with regard to reports from a number of sources of the corruption and incompetence of the judiciary, and the lack of cooperation between the judiciary and other services, such as the judicial police. Noting that there had been no court decisions referring to the Covenant, he asked whether that meant that the Covenant could not be directly invoked before the courts, contrary to the Constitution.

13. Mr. TIRADO MEJÍA asked what problems had been inherited from the communist regime in the area of women's and children's rights.

14. He requested information on the independence of the Albanian Human Rights Centre, and whether it was a State organization or an NGO. He asked whether the Government had consulted with civil society in preparing the report.

15. He requested additional information on the appointment of judges. He expressed concern with regard to reports that there were corrupt judges and political appointees in the judiciary. If that was indeed the case, he wondered why the High Council of Justice had not taken any action in that regard. He clarified that by court decisions containing references to the Covenant, the Committee meant decisions relating to the rights guaranteed under the Covenant, not necessarily the Covenant itself. He therefore wished to know whether there had been any such decisions, in relation to the right to education or to strike, for example. If such cases were not brought before the courts, he wondered whether it was because the persons concerned did not have access to the courts or were not aware of their rights.

16. He requested information on discrimination against the Roma.

17. He would welcome further information on the legislation adopted on economic, social and cultural rights, and what steps were being taken to ensure its implementation.

18. Mr. RZEPLINSKI also expressed concern that citizens did not enjoy protection of economic, social and cultural rights because of the weakness of the judiciary. He wondered what measures were being taken by the authorities to strengthen the independence of the judiciary and protect judges from threats from organized crime groups.

19. He asked whether there was any special plan of action to improve the treatment of Roma, and what steps were being taken to protect the small Greek minority from discrimination. He would also welcome information on the Government's policy to protect Albanians living and working abroad from discrimination in other countries.

20. Ms. BRAS GOMES asked whether the Government's efforts to rebuild the country had benefited rural areas, which had specific problems including a population made vulnerable by mass emigration.

21. She inquired whether Albania was planning a framework law against discrimination that would include a definition of discrimination, and encouraged the delegation to provide statistical data enabling the Committee to better assess any progress achieved in that field.

22. She asked the delegation to clarify the role of the Committee for Gender Equality and of the Inter-Ministerial Commission, and to specify whether the plans of the State party's middle-term strategy 2006-2010 included measures to properly staff and reinforce the financial and institutional structure of the regional contact points and sector ministries. Without such measures Albania's gender equality policy would not be effective.

23. Ms. BARAHONA RIERA asked what the Government was doing to ensure observance of, for instance, the Family Code in the face of the still prevalent customary law known as "kanun" - a set of civil, criminal and family codes based on the concept of honour and which often led to blood feuds among Albanians.

24. She wondered whether Albania's new gender equal opportunity bill applied only to the labour market or also aimed to ensure equal access to culture, health and education.

25. She would also like to know what measures the State party had undertaken to combat organized crime in the country and in particular to protect families, children and women against trafficking in persons.

26. Given that a large proportion of Albanians had left the country, she asked the delegation to describe any measures the Government had taken to support the families those emigrants had left behind.

27. Mr. SADI asked whether the State party had sought technical assistance from the United Nations to meet its reporting obligations, considering Albania was inexperienced in that field and was still grappling with the difficulties of a transition period. He drew the delegation's attention to the Committee's general comments, which might provide guidance, in particular with respect to poverty reduction and education.

28. He wondered if the Albanian Human Rights Centre met the Paris Principles relating to the status and functioning of national human rights institutions, if the Ombudsman was effective in ensuring the exercise of economic, social and cultural rights, and if the country had a national plan of action to promote human rights, especially in the context of the recommendations of the World Conference on Human Rights held in Vienna in 1993. He requested examples of laws contravening the Covenant which the Supreme Court had quashed.

29. Finally, he invited the delegation to comment on the report that disabled people were discriminated against by not being allowed to marry freely.

30. Ms. GHOSE asked how many different ethnic minorities lived in Albania, and how many Albanians were of Roma and Egyptian origin. She requested clarification on the use of the term "nationality" in paragraph 5 of the core document (HRI/CORE/1/Add.124).

31. She expressed concern over the treatment of Egyptians in Albania and wondered what their status was, since, according to the European Commission against Racism and Intolerance and other sources, the Albanian authorities did not recognize them as a minority, thereby denying them the constitutional protections against discrimination available to other minority groups.

32. She requested clarification of the term “positive discrimination” used in paragraph 19 of the Government’s written replies to the list of issues (E/C.12/Q/ALB/1/Add.1), and asked whether the State party allowed for any protection of Roma and Egyptian women.

33. Mr. MARCHAN ROMERO wondered why Albania, which was not a recipient of immigrants but a country of emigration, had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

34. He also asked whether the State party had tried to recover its human capital through a programme of incentives and assistance to encourage the return of Albanian emigrants. He invited the delegation to elaborate on the collateral effects of mass emigration, such as trafficking in persons and in migrant workers in particular, on Albanian society and its exercise of the rights under the Covenant as well as on the country’s economy.

35. Mr. ABDEL-MONEIM said he would like the delegation to explain why Albania had not ratified seven important Conventions of the International Labour Organization (ILO) closely related to economic, social and cultural rights.

36. Mr. HOXHA (Albania) said that the judiciary, which required far-reaching and long-term reform, was ranked first on the country’s list of corrupt institutions by the Albanian public itself, a key issue raised during the latest parliamentary elections and still a subject of political debate.

37. The complicated links between the different judiciary services, the judicial police, the Procurator-General’s Office and other services could be explained both by the country’s history and by the fact that Albania had limited means to reform its justice system to ensure its compliance with various obligations, including those ensuing from the Stabilization and Association Agreement with the EU.

38. Mr. HOXHA (Albania) explained that the High Council of Justice was the supreme authority governing the nomination and activity of judges. There had been several cases in which judges had been disciplined following an internal investigation by the Ministry of Justice or findings of the High Council of Justice. The Government was doing everything in its power to remedy the problems of the justice system. In an effort to train judges for their judicial duties, attendance at the country’s Magistrates’ School had been made obligatory. Although that rule was enforced for all new judges, there remained a significant number of judges who had been practising prior to its introduction and had not yet conformed to it. The various measures taken showed that his Government was making an effort to tackle corruption. Work on corruption was one of the primary goals in the country’s cooperation with the EU.

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

39. Mr. HOXHA (Albania) said that there had been no examples of cases in which a judge's decision had referred specifically to the Covenant; however, as the Covenant was an integral part of Albanian legislation, it inevitably affected such decisions: judges simply needed to become used to referring to the Covenant when giving their verdicts.

40. Regarding the situation of women during the communist period, women had not been discriminated against specifically; rather, they had been subject to discrimination in the same way as the rest of the population. While it could have seemed that women had benefited from affirmative action measures such as quotas for the number of women in parliament and positions of power for example, they had in fact suffered more than other sections of the population because of the material difficulties of family life.

41. Mr. NINA (Albania) apologized for any misunderstanding over the status of the Albanian Human Rights Centre, and sought to clarify the situation: the Centre was an entirely independent NGO founded in 1992; however, it had participated in the intergovernmental working group on the reporting process.

42. Concerning reporting obligations, before May 2001 no report had been submitted to United Nations treaty bodies and most reports had been more than six years overdue. With the establishment of the working group for the completion of reports, the reporting process had been resumed. All overdue reports had since been submitted.

43. All relevant NGOs were invited to take part in the process of compiling reports, including the report currently under consideration; unfortunately, very few NGOs had contributed. Nevertheless, the Albanian Government stood ready to cooperate further with NGOs in implementing the various human rights instruments.

44. During the compilation of its initial report, Albania had received technical assistance from the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP). The results of such cooperation had proved very satisfactory.

45. The Albanian Government saw two problems with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: only a small number of States had thus far signed the Convention and those that had done so were all States receiving migrants. The Albanian authorities had considered the impact which ratification of the Convention would have on Albanian migrant workers abroad and migrant workers in the country, but had concluded that its effect would be negligible. The Government had instead decided to focus first on ratification of the European Convention on the Legal Status of Migrant Workers.

46. Ms. LESKOVIKU (Albania) explained that the independence of the courts from politics and the intervention of any political party was provided for in the Albanian Constitution. Since the 1990s, there had been many problems with the courts, including a lack of professionalism, inefficiency and corruption. To combat such problems, the State had concentrated on enhancing the professional skills of judges. The Magistrates' School had been established to provide both

basic and continuous training for procurators and judges. Closer cooperation had also been encouraged between the courts and other parts of the justice system, such as the police and the Procurator's Office. The Government believed that the measures taken would reduce corruption and enhance judges' competence.

47. Members of the High Council of Justice were elected by judges and procurators in order to avoid political intervention, as specified in its founding legislation. The Council was the highest forum for the appointment of judges and procurators in Albania, as well as the profession's highest disciplinary body.

48. Mr. QIRKO (Albania), referring to the questions posed on ethnic minorities in Albania, said that the country's legislation recognized three national minorities: Greeks, Macedonians and Montenegrins. Two linguistic minorities were also recognized, namely Vlachs and Roma. The Greek group was the largest minority within Albania, making up 1.2 per cent of the population, while the most widely spoken minority language was Roma. Within the Roma community, a division had appeared several years ago when a number of people in the group had declared themselves to be members of an Egyptian minority. As the Egyptian Government had not officially recognized the group as a national minority in Albania, the situation was unresolved; however, the Government was trying to ensure that the group enjoyed all minority rights. The 2003 National Strategy for improving the living conditions of the Roma people would also cover the Egyptian community, as would the laws relating to the education of the Roma community. In Albania, relations with the Greek minority were excellent. In 2004, a State Committee on Minorities had been established as an advisory body within the Council of Ministers, in which all minorities were represented.

49. Regarding the question on discrimination against members of the Roma community by the police and the justice administration, Albania had comprehensive legislation to prevent discrimination against all ethnic minorities, including article 20 of the Constitution which granted them full human rights. A political party had been formed which represented minorities and had come to play an important role in the government of Albania.

50. Mr. HOXHA (Albania) said that, while isolated cases of mistreatment of members of minority groups by the police had occurred, such instances were linked to the quality of policing in the country, rather than discrimination. The Ministry of the Interior had followed up all complaints made concerning police treatment, and certain members of the police force had been punished.

51. Ms. SHKËMBI (Albania) said the most important piece of legislation concerning discrimination was article 18 of the Constitution, which stated that all were equal before the law. When positive discrimination was referred to in paragraph 18 of the written replies to the questions submitted by the Committee (E/C.12/Q/ALB/1/Add.1), it meant that specific treatment or protection could be accorded to certain categories of individuals. The limitation of a person's rights was provided for only in instances where such limitation would be in the public interest and would protect the human rights of others. Such limitations must be proportionate to the situation and should not exceed the limits set by the European Convention for the Protection of Human Rights and Fundamental Freedoms.

52. It was impossible to give precise figures for the numbers of Albanians working in other countries. No special studies had been carried out and there had long been a constant flow in and out of Italy and Greece, in particular. A rough approximation might be 1 million migrant workers between 1991 and 2006.

53. Nearly all migrant workers faced problems of legality. Receiving countries seemed to be making efforts to issue permits of various kinds or, in some cases, to regularize all migrant workers en masse. Albania, for its part, tried to obtain agreements to ensure social security and other forms of protection for Albanian migrant workers.

54. Ms. LESKOVIKU (Albania) said Albania was now party to various regional agreements and structures on migration, asylum and return of illegal residents, as part of efforts to combat illegal migration in Europe and establish mechanisms and procedures for the identification and safe and orderly return of persons who did not meet the conditions for entry into or residence in the States parties to such agreements.

55. Mr. NINA (Albania) said no specific national human rights plan of action had been established pursuant to the 1993 Vienna Declaration and Plan of Action. The principles of the Declaration had, however, been implemented through various other action plans.

56. On the issue of direct invocation of the Covenant before the courts, he said that the application of article 122 of the Albanian Constitution was not in question. The International Covenant on Civil and Political Rights, for example, had been directly invoked before the courts in a number of cases in recent years. In addition, Albanian law fully incorporated the principles of international instruments ratified by Albania.

57. Since the publication of the report, the following ILO Conventions had been ratified: Labour Inspection Convention (No. 81), Migration for Employment Convention (No. 97), Social Security (Minimum Standards) Convention (No. 102), Minimum Wage Fixing Convention (No. 131), Workers' Representatives Convention (No. 135), Rural Workers' Organizations Convention (No. 141), Migrant Workers (Supplementary Provisions) Convention (No. 143), Occupational Safety and Health Convention (No. 155), Employment Promotion and Protection against Unemployment Convention (No. 168), Night Work Convention (No. 171), Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173), and Maternity Protection Convention (No. 183).

58. Mr. HOXHA (Albania), referring to Ms. Bras Gomes' question on the impact of economic reconstruction on rural areas, said that less than 50 per cent of Albania's population now lived in rural areas, although agriculture was still a major contributor to GDP. Migration to urban areas and abroad had left the rural population poorer, particularly in the more remote regions. They lived basically off livestock farming, but with at least one member of every family abroad, foreign remittances were a very important source of revenue.

59. The Government had various poverty-reduction and international cooperation programmes, including with UNDP, details of which could be provided at a later date. However, conditions in rural areas could only be improved through better infrastructure and communications.

60. Ms. PODA (Albania) said that, under new legislation, matters of gender equality were now the responsibility of the Ministry of Labour and Social Affairs. The Ministry's new Department of Equal Opportunities dealt with gender equality and also housed technical secretariats on persons with disabilities and on children. The Department's main task in respect of gender equality was to formulate policy, promote gender equality and encourage women's participation in political, social and cultural life. A national strategy was being developed by a special working group, with an emphasis, *inter alia*, on women in decision-making and education, the empowerment of women and the elimination of gender stereotyping in the media.

61. Ms. LESKOVIKU (Albania), replying to a question on organized crime and trafficking in human beings, said that national and international statistics showed that Albania was not a major transit or destination country for trafficking. Albania had taken important steps to bring its legislation on organized crime and trafficking up to international standards, including by amending the Criminal Code, setting up a serious crimes court and creating a task force to combat organized crime. Albania also cooperated closely with police forces in neighbouring countries, both in the exchange of information and in joint operations, notably against trafficking in people, arms and motor vehicles, and with the help of international and regional support had succeeded in creating a more adverse environment for smugglers. Efforts to combat people trafficking had been stepped up, with a special focus on child trafficking, and Albania's border police had introduced standard procedures for reception and interview of potential victims of trafficking.

62. Coordinated action required a proper strategy, complete with monitoring structures, and Albania's objectives were outlined in its National Strategy to Combat Trafficking in Human Beings 2005-2007. The corresponding monitoring body was the Office of the National Anti-Trafficking Coordinator, which, with the assistance of the Anti-Trafficking Unit, was responsible for coordinating the implementing institutions and collecting data on cases. There was also a State Committee to Combat Trafficking in Human Beings, chaired by the Ministry of the Interior.

The meeting rose at 1 p.m.