



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
28 August 2009

Original: English

**Committee on the Elimination of Discrimination
against Women**
Forty-fourth session

Summary record of the 889th meeting (Chamber A)

Held at Headquarters, New York, on Wednesday, 22 July 2009, at 3 p.m.

Chairperson: Ms. Gabr

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

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Sixth periodic report of Spain (CEDAW/C/ESP/6, CEDAW/C/ESP/Q/6 and Add.1) (continued)

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

Articles 7 to 9

2. **Ms. Halperin-Kaddari** asked for clarification of the figures on the political involvement of women that appeared in paragraphs 97 and 105 of the report. She would like to know whether the Organic Law on effective equality (LOIE) was applicable to every position in the public sector. Judging from the figures shown in paragraph 106, she wondered whether LOIE also applied to the private sector, as recommended by the Committee in its general recommendations Nos. 23 and 25. She asked for information on measures taken to ensure that Roma women could be represented in political life.

3. **Ms. Aido** (Spain) said that the Government was making a special effort not only to enforce quotas for female candidacies to elected office, but also to ensure that female candidates were among the top five positions on electoral lists so as to guarantee that they had a chance of being elected. Forty-six per cent of candidates for the Congress in the 2008 elections had been women, an increase of 12 per cent compared with 2004. Since the adoption of the equality law, the number of women elected to city councils had increased by 7 per cent. Approximately 41 per cent of the members of parliaments in the autonomous communities were women. In 2008, the number of women in senior positions in the national administration had increased by 6.3 per cent with respect to the previous year, and they now accounted for 34 per cent of those posts. The number of women holding positions in the judiciary had more than doubled, from 11 per cent to 29 per cent. Candidate lists in the autonomous communities were automatically rejected if they did not comply with the percentages required by LOIE. In the private sphere, the equality law stipulated that firms employing more than 250 workers must implement equality plans. Although the requirement did not extend to small and

medium-sized enterprises, the Government offered assistance to such firms in order to encourage them to hire more women and help them reconcile work and family life.

4. The equality law also established a period of eight years for boards of directors of large firms to achieve balance between male and female employees. In 2004, the percentage of women on boards of IBEX 35 firms had been 2.58, while in 2007, it had been 6.43 per cent. Private firms still had six years in which to meet the standards established in LOIE. Businesses would eventually realize that meeting those goals made sense from an economic standpoint; an increasing number of companies were implementing equality plans. The Ministry of Labour and Social Security, in collaboration with the autonomous communities, had instituted a plan of action for 2008-2011 that provided for inspectors to monitor compliance with LOIE. In 2008, inspections had been conducted in 4,028 firms.

5. **Ms. Martínez** (Spain) said that there was no law establishing quotas for minority participation in senior positions. The equality law did not establish quotas specifically for women, but rather sought to achieve balanced representation between women and men. However, the Government was working to increase the social participation and visibility of Roma women in particular by promoting their associations and their cultural activities.

6. The equality law also applied to the Executive Branch of government; accordingly, all appointments made by the Council of Ministers had to meet the requirement for balanced representation of women. At present, 32 per cent of all Secretaries of State, Under-Secretaries of State and Directors-General were women.

Articles 10 to 14

7. **Ms. Coker-Appiah** said that she would like more information on measures being taken by the Government to promote the access of Roma girls to education and their retention in the system. With regard to the transfer of education responsibilities from the State to the autonomous communities, she asked how the State would ensure that the autonomous communities implemented measures for positive action and support for Roma women and other vulnerable women. Noting the high concentration of women in the humanities, she asked what steps were being taken to

encourage more women to pursue science and technology. She wondered whether the creation of the Women and Science Unit in the Ministry of Education had increased the number of women pursuing scientific and technical fields in education. She would also like more information on access of migrant women to education.

8. **Ms. Popescu** asked for updated information about unemployment among women, including data broken down by provinces. Since it appeared that some regions were coping with the economic crisis better than others, she wondered whether those regions were implementing certain good practices that could be used nationwide. She asked whether the Government had managed to mainstream the gender perspective in its anti-crisis measures. She would be interested in having more information on the gender-based segregation of employment. She wondered what effect the planned structural reform of the services sector would have on women and what measures would be taken to protect them from any consequences of that structural reform.

9. She asked for updated information on the pay gap between women and men and the impact of the current crisis on that situation. Referring to the list of issues and questions, she asked for information concerning complaints related to the wage gap, the number of complaints that had been taken to court and the number of complaints that had been resolved.

10. She would like to know why the LOIE requirement for balance between male and female employees of private companies was not applicable for enterprises with less than 250 workers.

11. **Ms. Hayashi** said that she would appreciate more information on the role of labour and social security inspectors in addressing the pay gap between women and men. She would like to know how the labour inspection office assessed work of equal or similar value. The statistics on gender-based discrimination provided in the report seemed too low, and she requested more up-to-date information. She wondered if the labour inspections office was sensitive enough to gender issues and what measures could be taken to strengthen its role as a monitoring body. She asked what type of compensation was available to victims of wage discrimination and whether they could claim the unpaid wages they should have received. She wondered if there a statute of limitations on such complaints and

whether victims could pursue their complaints without going to court.

12. She was also concerned about the situation of part-time workers, most of whom were women, and she would be interested to know if the Government planned to continue with its current policies in that area. She would like to know what the Government was doing to encourage women who wished to return to full-time employment after working part-time to care for children or other family members. She asked if civil lawsuits had been brought by part-time workers and what had been the outcome of those actions. She would like more information on termination of employment and what measures were in place to ensure job security for part-time workers.

13. **Ms. Arocha Domínguez** asked whether the State party had mechanisms in place to ensure that Roma adolescents received a full secondary education, as required by law. She was also concerned about the school atmosphere for Roma students, who suffered more discrimination than other minority groups. She would like to know what measures were being taken to overcome stereotypes of the Roma population that still prevailed in schools.

14. Drawing attention to the figures provided in paragraphs 230, 231 and 232 of the report regarding HIV infections and pregnancy terminations among adolescents, she urged the State party to improve sexual education programmes. Improvements were also needed in the delivery of sexual and reproductive health services for women with disabilities.

15. **Ms. Pimentel** said that she found it difficult to understand why, with so many mechanisms in place for preventing and dealing with HIV/AIDS, there seemed to be so little improvement in the situation. She would like to know whether voluntary interruptions of pregnancy were subject to any kind of penalties, whether they were performed under adequate sanitary conditions, and what was being done to reduce the occurrence of such procedures.

16. **Ms. Begum**, noting the regrettable situation of rural women as described in the report, asked what initiatives were being taken to change the situation. She would appreciate more information on opportunities to enable women to participate in the decision-making process in local administrations on an equal footing with men. She wondered what opportunities had been created to encourage women to

become microentrepreneurs in agro-based industries. She would like to know if the Strategic Plan for Equality of Opportunities would improve the quality of life of rural women and Roma women.

17. She would like to know whether the Sara Programme for immigrant women included microcredit options to enable migrant women to set up their own business. She asked for more information on efforts to enhance migrant women's de facto equality in employment, health and access to social services and to the justice system. She would be interested in learning whether foreign women who had temporary work permits were protected by the equality law.

18. **Ms. Martínez** (Spain) said that thanks to affirmative action measures taken by the Government, 51 per cent of economically active women were now participating in the labour market. The delegation would be happy to provide the Committee with up-to-date information on the situation of women in the labour market, the wage gap and related issues. The number of women in academic positions had also increased from 39 per cent of the active population in 2004 to 51 per cent by the end of 2008.

19. According to recent statistics, male unemployment had reached 18 per cent and female unemployment, 16 per cent. Full-time jobs had grown more than part-time jobs in recent years. The Government had continued to promote women's access to employment through incentives to employers and similar measures. The wage gap remained a serious problem not only for Spain but also for Europe as a whole. It had not yet been possible to close that gap, which currently stood at 17 per cent. In the context of a campaign launched by the European Commission, the Spanish Government had commissioned a research study to quantify the wage differences between women and men, analyze the causes of the differences and develop indicators for accurately measuring the wage gap. In addition, the Office of Labour and Social Security Inspections would send inspectors to workplaces that were highly feminized to report on cases of direct and indirect wage discrimination.

20. The inspection plan to monitor compliance with LOIE was continuing. For the first time, labour inspectors were being supplied with specific information to enable them to detect gender-based discrimination. Although equality plans were not required for small and medium-sized enterprises, they

were encouraged to establish them. The Government was hiring consultants to help develop equality plans for such companies.

21. To promote the sharing of responsibilities for childcare, the equality law provided that male and female workers should be allowed to change their work schedules so as to have time for family life. The courts were supporting men and women who filed complaints about employers who did not allow that flexibility. The law included certain positive measures on behalf of male and female workers, such as requiring that a man or a woman who wished to take leave to care for a child or dependent should be able to return to the same job upon completing the period of leave. Employers were also required to provide such workers with refresher courses to update their skills. Male workers were entitled to two weeks' paternity leave, and day-care facilities were provided for children under 3 years old. Parents also received €2,500 as direct assistance for each child.

22. **Ms. de Santos** (Spain) said that in March 2009, the General Secretariat for Employment of the Ministry of Labour had issued its first report on women and the labour market, which showed that women in general, including immigrant women, were weathering the crisis better than men. Female employment had continued to increase, and women had achieved a level of skills that put them on a par with men among the economically active population. Nevertheless, wage discrimination remained a problem. The report showed that in 2008, only 1.5 million out of 10 million active women were unemployed; of those, more than half were in the 30-54 age group.

23. Discussions on employment policy were on the agenda of the social dialogue currently under way between the Government and representatives of labour unions and private businesses. Since 2008, the Government had been implementing a stimulus plan which included promoting part-time employment, bearing in mind the economic crisis. The ultimate goal was that part-time or temporary jobs should eventually become permanent full-time jobs. With regard to the wage gap and the inspection programme, she said that the Council of Ministers had recently organized courses to upgrade the training of labour inspectors, particularly in the area of gender discrimination.

24. **Ms. Linares** (Spain) said that the illiteracy rate among the Roma population had dropped from

68 per cent in 1978 to the current level of 16 per cent among Roma women and 9 per cent for Roma men. Promoting education for the Roma population was a high priority, especially since 1987, when the development plan for the Roma population had been launched. An effort was being made to include positive images of successful members of the Roma community in the school curricula. Volunteers from a non-profit association were providing teachers and serving as mediators between the schools and the Roma community, encouraging Roma parents to become more involved with school programmes and Roma children to participate in extracurricular activities.

25. **Ms. Martínez** (Spain) said that about 54 per cent of the beneficiaries of Government projects for the Roma people were women. During the period 2004-2008, more than €6.5 million had been invested in programmes co-financed with the autonomous communities. With regard to rural women, a royal decree had been issued establishing shared ownership of farms, so that the wives or daughters of farm owners were fully entitled to the social protection associated with the farm. That right also included direct entitlement to assistance and payment of all subsidies associated with the agricultural activities on that land. In addition, a gender observatory had been created for rural women. More than 90 per cent of the Spanish population currently lived in urban areas, and depopulation had become a problem in rural areas; hence the importance of women's contribution in the rural environment. Agrarian cooperatives, microcredit facilities, networks of women producing crafts, and prizes for literary and artistic achievements of rural women were all being encouraged, as was the participation of rural women's organizations. It was significant that the ministries of agriculture and of the environment were headed by women.

26. The imposition of penalties for employers who discriminated against women in the workplace was a matter for the courts to decide. To encourage private businesses to comply with the equality law, consideration was being given to establishing incentives such as special awards to companies that followed good practices and promoted equality in their labour relations.

27. **Ms. Aido** (Spain) said that in the context of the social dialogue between the Government and the labour and business sectors, a unit had been created to monitor implementation of the law on effective

equality between women and men. Also, the Council of Ministers had recently approved a measure whereby women who had to take leave for reasons related to pregnancy or childcare should continue accruing their benefit entitlements during the period of leave. A subsidy was granted for women working as domestic servants.

28. The Government shared the concerns expressed regarding the increase in unwanted pregnancies and voluntary interruptions of pregnancy. New regulations were being developed to provide legal guarantees to ensure that women and professionals involved in pregnancy terminations would not be prosecuted. That provision would be included in a broader bill that was being drafted in keeping with recommendations of the World Health Organization and other international organizations. The bill would also include measures on sex education and sexual and reproductive health and would require the Government to draw up a national strategy on sexual and reproductive health every five years, in collaboration with the autonomous communities, social organizations and scientific associations. Special emphasis would also be placed on prevention of sexually transmitted diseases. The bill was in the drafting stage, but would soon be submitted to Parliament.

Articles 15 and 16

29. **Ms. Halperin-Kaddari** asked for information on the availability of free legal aid for women in cases of family litigation. She would also like information about alternative dispute resolution, especially mediation, assuming that mediation was encouraged, but she would like to know whether safeguards were in place, given that mediation could potentially have adverse effects for women because it sometimes enhanced power differences, especially when domestic violence was an issue. She would like to know about the status of no-fault divorce. She asked for information about shared custody, which might give men an excuse to lower the amount of child support they would have to pay. Had the Government conducted research on those issues and were monitoring mechanisms in place to safeguard against the risks involved in the legislative amendments?

30. She would like to know whether common-law marriages or de facto relationships were now being accorded the same rights and obligations as formal marriages? If so, what were the implications for Roma

women and Roma marriages? She would also be interested to hear about the status of Roma women with respect to State benefits such as pension rights.

31. **Ms. Ruiz** (Spain) said that Spanish legislation was very generous in granting legal aid for persons with limited means. Law 1/1996 on free legal aid established certain basic requirements for such assistance. The main requirement was that the person should not have the financial means to pay for an attorney. The law guaranteed free legal assistance for women with disabilities and those in other categories covered by the law on effective equality. That assistance was also available to persons acting on behalf of their dependents who had disabilities. Free legal aid was also guaranteed for foreign women regardless of their administrative status.

32. A bill on family mediation was currently being drafted to bring Spanish legislation in line with that of the European Union. The legislation on divorce dealt with a variety of issues, including shared responsibilities for the care of children and other dependents. The rules regarding separation and divorce proceedings had been simplified. The Spanish Civil Code focused on the effects and consequences of separation and divorce, especially for minor and adult children. A child support guarantee fund had recently been established to cover support payments when the debtor spouse was not meeting that obligation, with the State subsequently collecting the amounts it had paid from the delinquent spouse. In divorce cases, a compensatory pension was provided, either on a temporary or an indefinite basis. In assigning compensation, the courts took into account a variety of circumstances, including agreements between the spouses, the age or health of the persons affected by the divorce, the professional qualifications of the spouse who was in a vulnerable position and the person's employability. Pensions could be changed under special circumstances. Use of the family domicile was also regulated by the Civil Code.

33. **Ms. Aido** (Spain) said that the most recent amendment to the Civil Code provisions regarding divorce allowed shared-custody arrangements provided they were requested by both spouses or by only one spouse if the request was approved by the relevant authorities and was considered to be in the best interests of the minor children. A study was currently under way on the issue of custody and all its implications. Shared custody was not allowed when

gender violence was an issue. There was no provision for mediation. Marriage was a contract that gave rise to certain rights and duties. The State did not concern itself with rites or traditions or customs. A civil contract was required in all cases, even when a marriage ceremony had been held.

34. She was pleased to announce that on 26 June 2009, the Council of Ministers had decided to ratify the amendment to article 20 (1) of the Convention. The report of the Council would be submitted to the Congress of Deputies, and the ratification procedure should be completed by the end of the year.

35. **Ms. Halperin-Kaddari** asked for clarification of the provisions of the law on effective equality that required companies in the private sector to meet parity standards. She wondered what would happen to a company that did not comply.

36. She still wondered about the situation of de facto relationships and what rights and obligations a couple in a de facto relationship would have. She asked for a definition of marital property and whether it included pension rights, savings and earning potential or personal goodwill.

37. **Mr. Flinterman** asked what improvements had been made in the procedures for women seeking asylum when gender-related issues were involved. He would like to know what the Government had done to improve the asylum procedure in order to ensure that gender-related claims were properly considered.

38. He wondered if the judiciary and the legal profession were fully aware of the provisions of the Convention and whether the judiciary and the legal profession received continuous education regarding the interpretation of the Convention.

39. **Ms. Pimentel** asked if Roma women received some kind of health education, bearing in mind reports that Roma women often practiced self-medication, sometimes taking the wrong medicines or the wrong dosages.

40. **Ms. Linares** (Spain) said that that Ministry of Health and the autonomous communities were making every effort to educate health-care providers working with the Roma community, especially to acquaint them with the culture and traditions of that community. Approximately 80 per cent of the clients of health-care programmes were Roma women. It was true that members of that group tended to take more medication

than necessary. The Government was implementing comprehensive programmes aimed at teaching Roma women, bearing mind that they would be transmitting what they learned to the rest of the community.

41. **Ms. del Puy** (Spain) said that even before the adoption of LOIE, victims of gender discrimination had been deemed worthy of international protection. That protection was included not only in the law on effective equality, but also in the bill on the right of asylum that was currently in Parliament and was expected to be adopted by the end of September. The gender perspective was therefore one of the issues that was taken into account when the authorities considered requests for asylum. In 2008, out of a total of 4,517 requests for asylum, 1,417, or about 40 per cent, had been submitted by women. Asylum or some type of subsidiary protection had been granted in 102 of those 1,417 cases. Although it was true that only a small percentage of women had received international protection on gender-based grounds; it was also true that in most cases, the asylum request had been made for purely economic reasons. In most cases, there had been agreement between the Spanish authorities and the United Nations High Commissioner for Refugees.

42. **Ms. Ruiz** (Spain) said that all international treaties that had been ratified by Spain were incorporated into its domestic legislation and were binding not only on the judiciary but also on all practitioners of the law, including officials involved in protection procedures for women, foreigners and other groups. Members of the judiciary and legal professionals received training on the implications of all treaties for their work, as evidenced in the many court decisions that specifically referred to the Convention.

43. **Ms. Martínez** (Spain) said that the law on effective equality recommended but did not require that businesses should comply with the parity principle on their boards of directors. During the two years in which LOIE had been implemented, the number of women on boards had tripled, from 3 per cent to 9 per cent. That proportion was still inadequate, and it was therefore possible that consideration might be given to making parity a requirement.

44. With regard to property rights and the division of assets (*patrimonio*) and joint property (*gananciales*) after divorce, she said that at the time of marriage, a couple could choose between the separate property

regime or the community property regime. During separation or divorce proceedings, if the couple had chosen community property, any assets acquired during the marriage would be divided between the spouses. Consideration was currently being given to the possibility of also allowing the division of pension entitlements accrued during marriage.

45. Replying to the question about de facto unions, she said that with the legalization of same-sex marriages, there was no longer any discrimination as to who could get married. All the rights pertaining to marriage under civil law arose from the civil contract entered into by the spouses. Consequently, the issue of discrimination or inequality regarding access to the civil rights inherent in marriage no longer existed.

46. **Ms. Aido** (Spain) said that after the end of the eight years allowed in LOIE for private businesses to attain parity on their boards, the Government would have to consider whether penalties should be imposed on firms that did not meet parity goals. At present, a system of incentives was in place to encourage businesses to offer equal treatment and equal opportunities for their female and male employees, as well as on their boards. Companies that met equality standards might also receive preferential treatment when bidding for Government contracts, provided they met all the other conditions of the tender.

47. She was pleased to announce that in December, Spain would hold a special event to celebrate the thirtieth anniversary of the Convention.

48. **The Chairperson** commended the Government of Spain for the political will it had demonstrated in its efforts to eliminate discrimination against women. Some problems remained, particularly in regard to some of the stereotypes concerning women and in the health sector. She welcomed Spain's decision to accept the amendment to article 20 of the Convention. At the same time, she hoped that Spain would soon withdraw its reservation concerning succession to the crown.

The meeting rose at 5 p.m.