



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Forty-fourth session

#### Summary record of the 12th meeting

Held at the Palais Wilson, Geneva, on Monday, 10 May 2010, at 3 p.m.

*Chairperson:* Mr. Marchán Romero

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*The meeting was called to order at 3.05 p.m.*

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant** *(continued)*

*Initial report of Kazakhstan (E/C.12/KAZ/1; E/C.12/KAZ/Q/1 and Add.1)*

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

2. **The Chairperson** welcomed the Kazakh delegation and invited it to introduce the initial report of the State party.

3. **Ms. Nusupova** (Kazakhstan) said that Kazakhstan's accession to the Covenant on Economic, Social and Cultural Rights showed its desire to achieve development goals, particularly the Millennium Development Goals (MDGs). Since 1991, the country had embarked on the path of a secular, democratic, law-based State by emphasizing respect for human beings and their life, rights and freedom. Ten years after its independence, it had changed its model of social and economic development radically, having overcome the 1998 financial crisis and the turmoil of 2008–2009. The implementation of strategic plans had made for an eightfold increase in gross domestic product (GDP), a reduction in the share of the population living under the poverty line from 50 to 10 per cent, a rise in life expectancy from 65 to 68 years within five years and an increase in the birth rate, which stood at 22.6 per cent.

4. In 2009, to tackle the crisis, the Government had allocated \$3 billion to bank recovery and \$1.5 billion to a special programme that had enabled 320,000 persons to find employment after training or retraining, and the country to achieve a historically low unemployment rate of 6.3 per cent. Emphasis had also been placed on industrial development in rural and agricultural areas and housing construction for the realization of the right to decent housing. Entrepreneurs received assistance, special subsidies and preferential loans from the State, which the authorities would continue to extend over the coming decade.

5. The healthy state of the economy had made it possible to create the proper conditions for protecting social rights. Every year, the State increased its social protection budget, which accounted for more than 20 per cent of all public expenditure. A large share was allocated to the pension system. There was also a funded pension system; the savings thus accumulated amounted to 11.7 per cent of GDP. While social assistance covered everyone, it particularly targeted the most disadvantaged families and was based on a partnership among the State, employers and workers.

6. The budget for education and health had increased by a factor of eight in 10 years. A free medical assistance system targeted pregnant women and children in particular. In 2009 the State had adopted a health code that had harmonized many legal documents with the relevant international standards and gave everyone the choice of medical insurance. Family protection was essential for the State, which was why particular assistance was offered to women raising their children on their own. Disadvantaged families received allowances for children under 18. In the same vein, Kazakhstan had recently ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

7. Kazakhstan was gratified to have been among the first countries to achieve the MDG of eliminating gender disparity in primary and secondary education by 2005. Education was free, almost all schools were connected to the Internet, and vocational and technical education offered 170 specializations. Assistance was available to support students who wished to go on to higher education, including loans and grants for study abroad. In 2009,

the education budget had risen by 1.3 per cent over the previous year, allowing for a teachers' pay rise. Education in the country was provided in 19 different languages. Kazakhstan had recently put in place its first preschool education programme.

8. The establishment of an inter-ministerial commission for the protection of the rights of minors to deal with certain diseases, for example alcoholism and drug addiction, had helped to reduce juvenile delinquency and the number of children placed in institutions.

9. In December 2009, the country had adopted a law on equality between men and women, which, among other things, aimed at taking gender equality into consideration in all laws and ensuring that 30 per cent of decision-making positions were filled by women and that women's salaries reached at least 80 per cent of men's by 2016.

10. The authorities made conservation of the cultural and historical heritage of a multi-ethnic population a top priority. Thus, the country's 50 theatres put on performances in the languages of the various ethnic groups, for example in Russian, Uzbek, Korean, German and Uighur. There were also publications and radio and television broadcasts in various languages. Kazakhstan set great store by its inter-ethnic and interfaith harmony (with more than 130 ethnic groups and 45 faiths living side by side) and prided itself on the model of tolerance that it provided. It was also shoring up national human rights protection institutions and non-governmental organizations (NGOs) alike, including those for the protection of economic, social and cultural rights.

11. An independent, dynamic country with a market economy and a liberal political system, Kazakhstan had recently categorized human beings as part of its national wealth while taking measures to improve the living conditions of its citizens, with due consideration for all constructive and objective proposals from international experts. Its willingness to modernize and its openness had been recognized internationally when Kazakhstan had assumed the leadership of the Organization for Security and Co-operation in Europe (OSCE) since early 2010.

#### *Articles 1–5*

12. **Mr. Pillay**, regretting that the Kazakh Government had not replied to question 1 of the list of issues, asked whether the Covenant could be cited by national courts and whether there was jurisprudence on the matter. He would like to know the current situation concerning the 2005 International Agreements Act that might adversely affect the direct applicability of the agreements. Apparently it was meant to be repealed.

13. He would like the delegation to say how far the Kazakh Government was prepared to follow the recommendations made by the Special Rapporteur on the independence of judges and lawyers in his report on his mission to Kazakhstan (E/CN.4/2005/60/Add.2) and what steps it intended to take to guarantee the independence of the judiciary and combat corruption.

14. **Mr. Kerdoun**, referring to paragraph 129 of the report under consideration concerning the Aliens (Legal Status) Act of 1995, which specified the rights and obligations of aliens, asked what impact the law had on migration and, in particular, on legal and illegal migrant workers and their access to economic, social and cultural rights. Turning to question 10 of the list of issues, he would like to know whether Kazakhstan, which had signed many agreements with neighbouring countries on employment and migrant workers' rights, was more a country of emigration or of immigration and whether those agreements aimed at addressing the issue of illegal migration.

15. **Ms. Bras Gomes**, referring to social indicators, which were generally weaker in Kazakhstan than in other countries of the region, including those relating to access to drinking water and the prevalence of tuberculosis, said she deplored the fact that the State

party had not established poverty, health and housing indicators. She asked whether it intended to fill that gap in the near future.

16. She would like to know the extent to which the State party took into consideration its obligation to guarantee the realization of economic, social and cultural rights for all, including the right to health and food, when it took measures to combat industrial pollution, land degradation and desertification. She would like to know also whether it planned to adopt a non-discrimination Act and, if so, whether it intended to refer to the Committee's general comment No. 20, on non-discrimination in economic, social and cultural rights.

17. Noting the many mechanisms and commissions responsible for combating gender inequality, including the National Commission on Family and Gender, she wondered which budget funded those different bodies and how their work was coordinated. Given that there was still very clear prejudice against women within society, including in school textbooks, it would be interesting for the delegation to indicate the percentage of women who held high-level positions in the public sector and specify the situation regarding adoption of the draft law on equal rights and opportunities, which provided that 30 per cent of posts of that kind should be filled by women.

18. **Mr. Riedel** enquired whether members of the Commission on Human Rights attached to the Office of the President were independent, in accordance with the Paris Principles. Referring to paragraph 79 of the report, which sketched out the Commission's mandate, he would like to know what kinds of application the Commission could consider, whether members of the armed forces could appeal to that mechanism and, if so, what follow-up was given to their complaints, as well as the scope of the Commission. He would appreciate it if the delegation could provide further information on the fact that the Commission and the Human Rights Ombudsman could not take up cases involving the President, members of Parliament, the Procurator General and members of the judiciary.

19. **Mr. Kedzia** asked the delegation to specify whether the Human Rights Ombudsman could look into complaints against a Government body. He would like to know what was the status of the two national human rights institutions, including whether they had been accredited by the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

20. **Mr. Atangana** enquired whether it was true, as some reliable sources had indicated, that lawyers were sometimes denied the right to represent their clients because they did not have access to information classified as a State secret and whether the State party planned to continue its policy of equal pay for men and women until it was able to establish wage parity.

21. **Mr. Tirado Mejía** requested information on the scope of human trafficking in the State party, including trafficking in women for sexual exploitation, and whether such trafficking was prohibited by law. Had court decisions already been handed down against traffickers?

22. He would like the delegation to explain the difference between the "official language", which was Russian, and the State language, which was Kazakh, and whether they could both be used equally in the courts.

23. **Mr. Schrijver** enquired whether citizens, groups of citizens and associations were sufficiently informed of the rights enshrined in the Covenant. Had public awareness programmes been established in primary and secondary schools?

24. **Mr. Sadi** asked why the State party had not ratified the Convention on the Rights of Persons with Disabilities.

25. Noting with concern the very high poverty level in the State party, which was as high as 63 per cent in rural areas, he wondered what the State party intended to do to prevent the situation from deteriorating because of land degradation, desertification and the ethnic tensions that seemed to be worsening. He would also like to have further information on alleged corruption among the judiciary, and the progress made on the 2006–2016 Gender Equality Strategy. The State party needed to adopt comprehensive legislation accompanied by a plan of action to guarantee such equality.

26. **Ms. Bonoan-Dandan** said that there had been reports that the Covenant was not cited in courts and that, alarmingly, the Constitutional Council considered that international instruments that contradicted national law could not take effect in the country even though the Constitution stated that the former prevailed over the latter.

27. The State party emphasized the need to inform the public on human rights, including through accessible information centres such as the Digital Library created by the Commission on Human Rights. It appeared that the Library provided legal resources but few resources on human rights as such. She would like to have more complete information on human rights awareness campaigns, i.e. the efforts made to inform the people of their rights. The State party had provided information on significant economic and social achievements but little explanation of how the population's situation had improved specifically from the point of view of economic, social and cultural rights.

28. The State party had indicated in paragraph 255 of its initial report a certain number of problems concerning the situation of persons with disabilities, including the absence of effective arrangements to protect their rights, together with the inertia and unresponsive attitude of the State organs. She would like more complete statistical information than had been provided by the State party concerning such persons, their numbers and their situation in order to have a clearer idea of the issue.

29. **The Chairperson**, speaking as a member of the Committee, noted that the International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169) was not among the many ILO conventions to which the State party had acceded. He would like to know whether Kazakhstan planned to become a party to that instrument.

*The meeting was suspended at 4.30 p.m. and resumed at 4.55 p.m.*

30. **Mr. Tileuberdi** (Kazakhstan) said that some changes towards increasing the independence of the courts and judges had been introduced in the State party's legislative and constitutional system since the drafting of the initial report in 2007. The Supreme Court Chief Justice and judges were elected by the Senate on the proposal of the President, who submitted a list of candidates recommended by an advisory council made up of representatives of the judicial system and civil society.

31. Measures had also been taken to make legal procedures more transparent, including electronic recordings of hearings and access to legislative databases. Several measures had been taken to ensure the independence of the judiciary, pursuant to the recommendations of the Special Rapporteur on the independence of judges and lawyers after his mission to Kazakhstan (E/CN.4/2005/60/Add.2). There was currently a three-tiered system composed of the Supreme Court, courts of appeal and courts of first instance. Judges' pay and social protection had also been improved.

32. There were two human rights institutions operating in Kazakhstan that complemented one another: the Commission on Human Rights and the Office of the Human Rights Ombudsman. The Commission on Human Rights was an advisory body attached to the Office of the President, which had the role of ensuring observance of human rights and developing and improving public human rights policies. The Commission was

made up of 23 members, including 13 NGO officials, and served as a bridge between civil society, the Head of State and public institutions. The Office of the Human Rights Ombudsman met several criteria set out in the Paris Principles, and its role complemented that of the Commission. The 2009–2012 Human Rights Strategy provided for the adoption of a law to bring that institution fully into line with the Paris Principles. A relevant bill would soon be submitted for discussion.

33. Appeals to the Commission on Human Rights could be lodged by legal entities or private individuals. The Commission every year received some 1,500 communications from citizens, who won 20 per cent to 30 per cent of their cases. There was interaction between the Commission and the Office of the Human Rights Ombudsman. The two institutions organized a number of joint activities, including conferences, training sessions, meetings with civil society, and inspections of prison establishments. They were currently cooperating on establishing a mechanism for preventing torture.

34. The Constitutional Council had a chairperson, two members appointed by the President and two members appointed by Parliament. Half the members of the Council were re-elected every three years. The Council's role was to consider issues such as disputed elections, the constitutionality of laws or the conformity of laws with a treaty or international agreement prior to ratification. A matter involving the constitutionality or observance of a human rights instrument raised in a legal case could be referred to the Council by a civil or criminal court. The Constitution provided that the President had the right to veto a Council decision, but that had never occurred in practice and such a veto was subject to certain restrictions. Laws had been declared invalid on two occasions by a decision of the Council, including a law on freedom of religion and faith in 2009, as it was not in keeping with the Constitution and the provisions of the Covenant.

35. **Ms. Jarbussynova** (Kazakhstan) said that treaties took precedence over national legislation under article 4 of the Constitution. The International Agreements Act aimed at clarifying the procedure for accession to treaties and the method of reviewing the consistency of national legislation with treaties. It aimed at ensuring that there was no contradiction with the country's legislation or Constitution at the time of accession. In the event of a contradiction, the legislature must introduce the necessary amendments to the law. The Constitutional Council had then issued an opinion on whether international instruments were consistent with national legislation, the former taking precedence over the latter. Also, the rules set out in the Covenant and in all international instruments ratified by Kazakhstan entailed direct consequences for cases tried before the courts.

36. **Mr. Alibayev** (Kazakhstan) said that the State party attached great importance in its policies to combating corruption. The State party had acceded to the United Nations Convention against Corruption and made determined efforts to deter perpetrators of acts of corruption. The relevant international indicator for assessing the level of corruption had decreased in Kazakhstan's case. The issue was a priority, and additional measures were envisaged. A law to combat corruption within law enforcement bodies was being drafted.

37. **Mr. Lepeha** (Kazakhstan) said that his country was a country of immigration and had one of the largest migratory flows in the world. In 2009, 1.2 million foreigners from the neighbouring countries of Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan and from as far as China, Mongolia and Germany had been registered in the country. Kazakhstan attracted a large number of highly skilled workers in the industrial sector as well as non-skilled illegal immigrants, half of them nationals of the Commonwealth of Independent States (CIS). Measures had been taken to document the some 160,000 illegal migrants in Kazakh territory, employed mostly in construction, the informal sector and the mining industry, who had entered the country on tourist visas. The provisions concerning the entry and exit of foreigners in the territory were covered by the law of July 2001, which required

visitors to register within five days of arrival. A visa was then issued on presentation of identity papers.

38. Specific programmes had been put in place to combat human trafficking, and the Criminal Code had been amended to include penalties for trafficking in persons, particularly children, including for the purpose of exploitation. Provision had also been made for medical care for trafficking victims. In 2009, 20 related proceedings had been brought, and 271 cases of human trafficking had been referred to the courts. All the measures taken had resulted in a decrease in the incidence of trafficking compared to previous years.

39. **Ms. Nusupova** (Kazakhstan) said that 8 million out of the country's 15 million inhabitants were employed. The unemployment rate was 6.3 per cent, and long-term unemployment was very low: 1.8 per cent for men and 3.3 per cent for women. Social indicators were actually improving compared to the previous year. The average salary had increased by 4 per cent and real income by 5 per cent. Kazakhstan had achieved the MDG on poverty reduction.

40. **Ms. Tulegaliyeva** (Kazakhstan) said that the increase in the birth rate and drop in the death rate had produced significant population growth. Tuberculosis-related mortality and morbidity had decreased. A large-scale project backed by the World Bank was under way together with a donor-supported tuberculosis programme. In accordance with the Public Health Code, all persons with tuberculosis enjoyed free medical care, monitoring, treatment, hospitalization and rehabilitation.

41. **Ms. Azimova** (Kazakhstan) said that Kazakh environmental and drinking water supply policy involved NGOs in projects that took into account the interests of the public, 20 per cent of which still had difficulties in gaining access to drinking water. Under a specific 2002–2008 programme, some 10,800 km of drinking water pipes serving a population of 4 million people had been reconstructed with the financial support of the Asian Development Bank and the Islamic Development Bank.

42. **Mr. Prokopenko** (Kazakhstan) said that Russian-Kazakh bilingualism had become a centuries-old reality in the country. Kazakh was the official State language, and Russian had acquired the status of an official language by law in 1997. Russian was spoken by practically the entire population regardless of ethnic origin. Official documents could therefore be drafted in Russian or Kazakh. Wishing to promote Kazakhstan's role in the international arena, the Head of State planned to add English as an official language of international communication, thus instituting trilingualism in the country. There were no ethnic tensions threatening Kazakh society. The authorities monitored the situation carefully and examined data from independent organizations, and were currently noting positive trends with respect to inter-ethnic relations. While the Kazakh people had long undergone a Russification process, which had greatly affected its national identity, the country had been heading towards a rebirth of Kazakh language and culture since independence.

43. **Ms. Naubetova** (Kazakhstan) said that the National Commission on Family Affairs and Gender Policy attached to the Office of the President of the Republic was an advisory body that coordinated the activities of State bodies in family and gender matters. It attended the meetings of various ministerial departments and other bodies. The resources allocated to it for gender equality strategies were determined under the State budget plan.

44. There was no denying the existence of stereotypes concerning the respective roles of men and women, as studies conducted in 2008 showed, but considerable work had been done to overcome gender bias. All draft legislation had come under a comprehensive review from that perspective, and education, training and awareness programmes were implemented in order to promote gender equality. In 2007, \$150,000 had been allocated to

media campaigns. The number of seats in Parliament held by women had doubled in 10 years (8 deputies in 2000 and 19 in 2009). Legislation had been adopted on guarantees of equal opportunities for men and women, the prevention of domestic violence and the promotion of the economic status of women, and women's entrepreneurship.

45. A strategy was in place to ensure that women earned at least 80 per cent as much as men by 2020 (as opposed to 64 per cent in 2010) to bridge the wage gap. That gap was related not to discrimination but to the fact that women were employed in sectors with lower wages, such as education and health. Lastly, when advisory bodies received a complaint concerning women's rights, they referred the case to the relevant bodies for appropriate follow-up.

46. **Mr. Abishev** (Kazakhstan) said that one component of the national human rights action plan was human rights training and education. The text of the Covenant was published in the Official Bulletin after its ratification and circulated in Russian and Kazakh in the media and on several of the country's official websites. It was therefore available to everyone to consult. Human rights education in general was provided through a 2006–2014 national programme, under which civic education courses on the rights and obligations of citizens and human rights were on offer in all the country's secondary schools. The Human Rights Digital Library established with the support of the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) office in Almaty held legal documents and all the observations made by legal experts and replies to current questions put by citizens. Provision had been made to make that resource available to people in rural areas.

*The meeting rose at 6 p.m.*