



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Forty-ninth session

#### Summary record of the 41st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 20 November 2012, at 10 a.m.

*Chairperson:* Mr. Pillay

### Contents

#### Consideration of reports

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

*Combined fourth and fifth periodic report of Bulgaria*

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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)*

*Combined fourth and fifth periodic report of Bulgaria* (E/C.12/BGR/4-5; E/C.12/BGR/Q/4-5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Bulgaria took places at the Committee table.*
2. **Ms. Roussinova** (Bulgaria), introducing the combined report, said that there had been further progress in terms of legislation and policies relevant to the implementation of the Covenant since the report had been submitted in 2009. In November 2011, the Human Rights Council had conducted the first universal periodic review of Bulgaria, and almost all of the recommendations made had been accepted.
3. In January 2012, Bulgaria had acceded to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, and between 2009 and 2011 had ratified the International Labour Organization (ILO) Convention, 1996 (No. 177), Occupational Health Services Convention, 1985 (No. 161) and Maritime Labour Convention, 2006.
4. In 2011, the Ombudsman and the Commission for Protection against Discrimination, the national human rights institutions, had formally undertaken the requisite steps before the International Coordinating Committee of National Human Rights Institutions for accreditation in accordance with the Paris Principles. In 2012, the Protection against Discrimination Act had been amended, providing as an absolute requirement that all draft laws be reviewed in advance by the Commission for Protection against Discrimination in order to avoid any contradictions with the non-discrimination standards.
5. In 2011, amendments had been introduced to the Penal Code to strengthen the response to hate speech and hate crimes by adding new grounds for discrimination and specifically criminalizing public incitement to violence or hate on ethnic grounds.
6. In 2011, the Government had entrusted responsibility for all consultation and coordination activities related to ethnic and integration issues to the National Council for Cooperation on Ethnic and Integration Issues. The Council's mandate had been broadened in relation to interaction with international institutions and the coordination of the Decade of Roma Inclusion 2005–2015.
7. Very recently, new drafts for a National Strategy on Reduction of Poverty and Promotion of Social Inclusion 2020 and a National Strategy for Long-Term Care had been launched for public consultation.
8. The national policy in the area of gender equality guaranteed equal access to the labour market and economic activities, and suitable measures for combining professional and family life. Particular attention was paid to the areas of education, health care, and prevention of domestic violence. The implementation of the National Strategy for Promotion of Gender Equality 2009–2015 and the relevant annual action plans were at the core of the gender equality policy, which was in accordance with European pacts and strategies in that area.
9. Bulgaria's policy regarding persons with disabilities was aimed at improving their quality of life, providing them with opportunities and ensuring their full and active inclusion in society. Bulgaria had ratified the Convention on the Rights of Persons with

Disabilities in 2012. In 2010, amendments had been introduced to the Integration of Persons with Disabilities Act, establishing a National Council on Integration of Persons with Disabilities and broadening the scope of the Agency on Persons with Disabilities.

10. The National Strategy for Roma Integration 2012–2020 covered six priority areas: education; health; housing; employment; rule of law and non-discrimination; and culture and media. An effective and comprehensive solution to the problem of Roma integration required further coherent efforts on the part of all stakeholders – State institutions, local authorities, civil society and the Roma people themselves.

11. With respect to policies for the elderly, the social services system had been broadened significantly in the past three years, with the aim of deinstitutionalizing care and expanding the scope of community- and home-based services such as day centres, social rehabilitation and integration centres, protected homes and family-type centres. The National Health Strategy 2008–2013 emphasized the importance of ensuring that the elderly had equitable access to health services.

12. The Government's policy was that obsolete childcare institutions must be closed by 2015 and replaced by a network of community-based services providing a family-based environment. Priority was given to the closure of institutions for children with disabilities and medical and social care homes for children up to the age of 3. In the past five years, thanks to Government measures and civil society action, conditions in State and municipal childcare institutions had improved significantly.

13. In its economic and social policy, Bulgaria had had to cope with the adverse impact of the global financial and economic crisis since 2008, and the constraints of economic recession and the internationally predominant austerity policies. The Government had worked responsibly to protect economic, social and cultural rights and to alleviate the social impact of the crisis on the most vulnerable groups in society.

#### *Articles 1 to 5*

14. **Ms. Barahona Riera** (Country Rapporteur) noted with satisfaction that much of the progress made by the State party had been as part of the follow-up to the Committee's previous concluding observations. Although major efforts had been made in the ratification of various international instruments, the Committee would be interested to hear why the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), for instance, had not been ratified.

15. She wished to know what difficulties had been faced in the accreditation of the national human rights institutions in accordance with the Paris Principles.

16. She asked how the economic crisis had affected national budgets for education, health, housing and justice, for example, and whether the Government had had to establish priorities. She wished to know what strategies were in place for minorities and disadvantaged groups in that regard.

17. She noted that progress had been made in regard to equality for women, but wished to know why there was still no specific law on gender equality. She asked what was being done to address the increasing feminization of poverty, and the fact that women were predominantly employed in low-paid jobs. What difficulties were encountered in incorporating women into decision-making posts in the public and private sectors?

18. Regarding the reform of services for the elderly, she requested information on pensions, and whether the minimum State pension allowed for a decent standard of living. She would also welcome information regarding policies on housing, especially low-cost housing.

19. She asked the reasons behind the very high maternal mortality figures, and also invited the delegation to comment on the issue of teenage pregnancy and the increase in sexually transmitted diseases.

20. **Ms. Shin** noted that, in response to the recommendation to emerge from the universal periodic review regarding accession to the Optional Protocol to the Covenant, the State party had indicated that it did not yet consider itself sufficiently prepared to take immediate steps towards accession, and therefore a working group would be established to deal with the issue. She wished to know whether such a group had in fact been established and, if so, the outcome of its discussions. The Committee would welcome the prompt ratification of the Optional Protocol by Bulgaria.

21. She wished to know how many of the nine members of the Commission for Protection against Discrimination were women, had disabilities or were members of an ethnic minority. She asked for disaggregated data on the complaints filed with the Commission in 2011, and their outcome. She would be interested to hear how many of the Commission's recommendations were implemented, in particular those regarding the Roma and Turkish communities and persons with disabilities.

22. She noted that, although the State party had ratified the Convention on the Rights of Persons with Disabilities, disability was not listed in the Constitution as one of the grounds for discrimination. She wished to know whether the State party had any plans to amend the Constitution, or whether it considered the Integration of Persons with Disabilities Act sufficient to protect their rights.

23. Noting that the State party did not have separate legislation on gender equality, she enquired what efforts were being undertaken to give more infrastructural support to women and to ensure that men shared responsibilities.

24. **Mr. Ribeiro Leão** asked if there were any specific programmes for refugees and asylum seekers, such as assistance in entering the employment market.

25. **Mr. Kedzia** requested more information about the relationship between the Ombudsman, the Commission for Protection against Discrimination, and the National Council for Cooperation on Ethnic and Integration Issues. He asked who could bring cases before the Commission for Protection against Discrimination, and whether the Commission's decisions were legally binding. He also requested further information on the role of the health mediators and labour mediators.

26. He supported Ms. Shin's comments concerning accession to the Optional Protocol.

27. He noted that, in May 2012, the Chairperson of the Committee had addressed a letter to all States parties concerning the measures being taken or planned in the context of the economic crisis, including the issue of the admissibility of austerity measures with retrogressive effect. He invited the delegation to comment on that letter, and the applicability of the concept presented.

28. **Mr. Sadi** asked the delegation to cite recent cases in which the Covenant had been applied in a court of law. If the Covenant was being invoked before the courts, he wondered what was preventing the State party from acceding to the Optional Protocol. He pointed out that ratification of the Optional Protocol would not require any immediate preparatory work by the State party.

29. He requested information on the extent to which human rights education was being provided at all levels of education, including for the judiciary.

30. He would be interested to know which groups were being targeted by hate speech, and asked the delegation to cite cases in which the applicable legislation had been invoked.

He wished to know which new grounds for discrimination had been added to the Penal Code under the 2011 amendments.

31. He asked whether the Commission for Protection against Discrimination had any jurisdiction over economic, social and cultural rights, or whether it dealt only with civil and political rights.

32. He wished to know whether there was any equivalent to the Decade of Roma Inclusion for the country's Turkish community, and whether there was any difference in treatment between the two groups. What obstacles still lay in the path of the National Strategy for Roma Integration? He would be interested to hear about the involvement of the Bulgarian people in integration efforts.

33. He requested further information on how the National Strategy for the Promotion of Gender Equality actually operated, on specific cases in which the strategy had been applied, and to what extent it had been successful.

34. **Ms. Roussinova** (Bulgaria) said that the Bulgarian economy had suffered considerably as a result of the global crisis. Nevertheless, the budgetary allocation for education had in fact been increased in the past year, and the State pension would be raised as of April 2013. In the past two years, the national minimum wage had also been raised several times.

*The meeting was suspended at 10.55 a.m. and resumed at 11.10 a.m.*

35. **Mr. Philipov** (Bulgaria) said that the two national human rights institutions — the Ombudsman and the Commission for Protection against Discrimination — were independent specialized public bodies vested with significant powers. In 2011, both institutions had been accredited with “B” status by the International Coordinating Committee of National Human Rights Institutions. One of the arguments for not awarding “A” status was that the Ombudsman Act did not provide for protection against violations of rights by the private sector. A draft law had been elaborated to amend the act accordingly. Both the Ombudsman and the Commission for Protection against Discrimination were quasi-judicial bodies that had the power to take legally binding decisions. In its case law, the Commission had referred to the Covenant on several occasions. Proceedings before the Commission were instituted after a complaint by the affected person, at the initiative of the Commission, or following reports from natural or legal persons. Three of the Commission's nine members were women, including the chairperson.

36. **Ms. Roussinova** (Bulgaria) noted that two members of the Commission were members of minority groups.

37. **Ms. Harizanova** (Bulgaria), addressing the question of safeguards for the rights of disadvantaged groups, and in particular people with disabilities, cited several relevant articles of her country's Constitution. She noted that under article 48 of that document the right to work also applied to people with physical and mental impairments, and that the State was obliged to create conditions to enable them to exercise that right. In addition to ratifying the United Nations Convention on the Rights of Persons with Disabilities, Bulgaria had enacted the Integration of Persons with Disabilities Act, and in 2010 had adopted a two-year plan to ensure that people with disabilities had equal employment opportunities.

38. **Ms. Ivanova** (Bulgaria) described the national-level machinery of the National Council for Cooperation on Ethnic and Integration Issues and the framework for implementation of policies at the national, regional and local levels. The National Council was a coordinating and consultative body assisting the Council of Ministers in the development and implementation of policy on ethnic and integration issues. It included a committee on Roma integration, given that integration of the Roma into Bulgarian society

was a national priority. The National Council was chaired by a deputy prime minister and included representatives of the Government, national agencies, municipalities, non-governmental organizations and other stakeholders. At the regional level there were district councils on cooperation and ethnic integration issues, while at the local level municipalities were free to establish local councils on such issues. The National Council worked closely with the Ombudsman, the Commission for Protection against Discrimination and other relevant institutions.

39. Turning to a question about the integration of Roma into society, she said that such integration was an issue throughout the European Union and that in her Government's view there were no quick or simple solutions. There was a need to enhance social inclusion and fairly distribute the burden of responsibility. Her country's National Strategy for Roma Integration was based on the European Union Framework for National Roma Integration Strategies up to 2020. National efforts focused not just on the Roma but on various groups in vulnerable situations. She offered to provide additional information on the matter, including statistics.

40. Replying to questions about the health sector, she said that the profession of health mediator had been institutionalized by the Government in 2007. The health mediator served as a bridge between vulnerable groups and the public health sector, working to increase awareness of health issues in such groups. She cited the Council of Europe ROMED training programme for health mediators working with the Roma. Health-care reform in Bulgaria had uncovered some alarming health trends among the Roma, such as high morbidity and low life expectancy. The National Strategy for Roma Integration included 39 measures related to health care, with a particular focus on prevention and screening.

41. **Ms. Roussinova** (Bulgaria) said that the principles identified by her Government as important for Roma integration included improved housing, access to education and health care, and access to the labour market. Her Government had earmarked approximately 30 million leva for integration projects in four major cities.

42. **Ms. Vaseva-Dusheva** (Bulgaria), referring to the question of schooling, said that because the elimination of mixed-level classes had led to many smaller schools being closed, adjustments had been made to ensure that all students had physical access to a school. In particular, so-called protected schools did not have to satisfy all the requirements for keeping a school open, and were allocated operating funding regardless of their size. The scope of preschool education, which had been introduced recently, was being broadened so that soon it would be available to children as young as 4. Programmes had been established for each grade and subject. She offered to provide statistics on expenditures on exceptionally talented students and those who lagged behind their peers. Stipends were available for outstanding students and the socially disadvantaged. In short, despite the financial crisis, the Government was increasing its spending on schools.

43. **Ms. Roussinova** (Bulgaria) noted that in the past three years the drop-out rate had fallen from 14.1 per cent to 12.8 per cent.

44. **Ms. Masheva** (Bulgaria), addressing the question of the direct application of the provisions of the Covenant in Bulgaria, said that it was established, stable and consistent practice for courts and law enforcement authorities to base their decisions on the provisions of the Covenant.

45. Regarding the training of judges, she said that human rights issues and the application of relevant international law were covered in law school curricula. Prosecutors, judges, police officers and investigators also received training in those areas. In 2010 the Commission for Protection against Discrimination had held several seminars for judicial and law enforcement workers on preventing and combating discrimination via criminal law. Public awareness of human rights and their protection was enhanced by the fact that all

decisions of the courts and the Commission were published on the Internet and in the official journal.

46. **Ms. Ivanova** (Bulgaria), replying to questions about gender discrimination, outlined the main goals of the National Strategy for Promotion of Gender Equality 2009–2015. Annual action plans were adopted to implement the strategy, and there had been many awareness-raising measures and projects. As an example of progress in eliminating gender stereotypes, she said that in 2011 a total of 1,563 men had availed themselves of the paternal leave available for the six months following the birth of their child, while in the first half of 2012 the corresponding figure had been 1,600. She cited figures pointing to the high participation of women in national-level decision-making bodies and in ministries, noting that the Speaker of the National Assembly was a woman.

47. **Ms. Roussinova** (Bulgaria) said that the employment rate for women in the last quarter of 2011 had been 61 per cent, nearly as high as the rate of 66 per cent for men.

48. **Mr. Tehov** (Bulgaria), answering questions on issues relating to the migrant workers Convention, ILO Convention No. 169 and the Optional Protocol to the Covenant, said that while, during the universal periodic review, Bulgaria had indicated that it lacked the necessary administrative capacity to take immediate steps towards ratification of the Optional Protocol, that was no longer the case if it ever had been. Bulgaria accepted the principle enshrined in the Optional Protocol and the Government was engaged in consultations with a view to its ratification. It was also considering the possibility of acceding to the Migrant Workers Convention. While the country did not have any reservations with regard to the Convention, it was obliged, under European Union regulations, to coordinate such steps with its partners. Finally, with regard to ILO Convention No. 169, while Bulgaria had actively supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and all subsequent United Nations resolutions concerning the rights of indigenous peoples, it was important to note that the Convention in question concerned “tribal peoples ... whose social, cultural and economic conditions distinguish them” and “peoples ... who are regarded as indigenous on account of their descent from the populations which inhabited the country ... at the time of conquest or colonization”. Bulgaria had no such persons living on its territory, and therefore, although it continued to support the rights of indigenous peoples in general, there was no call for it to accede to that Convention.

49. **Ms. Masheva** (Bulgaria) said that the Government had amended the Penal Code in 2011 to incorporate the European framework decision on combating racism and xenophobia, add new grounds of discrimination and broaden the scope of article 162 to include public incitement of ethnic violence. The Commission for Protection against Discrimination had processed more than 30 cases in which the rights of Roma had been upheld.

50. **Ms. Roussinova** (Bulgaria) said that, despite mandated austerity measures, the Government was committed to major reforms of the health and education sectors and had managed to increase State spending in certain areas. For example, in 2013, 120 million leva would be allocated to education, 310 million leva to public infrastructure and environmental protection and 450 million leva to labour measures. The share of gross domestic product spent on pensions would rise to 9.6 per cent, from 9.3 per cent in 2011. The minimum wage had increased to 310 leva, while the retirement pension for those over age 70 had been improved.

51. **Mr. Yalnazov** (Bulgaria), quoting from the latest United Nations Development Programme report, said that Bulgaria ranked 55th in the human development index and 40th for gender equality, while gross national income per capita had increased by 68 per

cent between 1995 and 2011. Therefore, the Government was meeting the requirements of article 11 of the Covenant.

52. **Mr. Sadi** requested specific examples of the additional grounds of discrimination in the hate speech legislation.

*Articles 6 to 9*

53. **Ms. Cong** enquired about the extent of social security coverage, whether it included rural populations and vulnerable groups and whether there were plans to expand social benefits. Referring to paragraph 108 of the State party report, she asked what effective measures the Government had taken to alleviate the financial burden on pensioners.

54. **Mr. Martynov** asked for more recent figures on unemployment, including the level of unemployment benefits and statistics on long-term unemployment. He pointed out that, although the State party report mentioned regional disparities in unemployment patterns, it did not indicate whether programmes had been set up to rectify the imbalances. He asked what percentage of the population was covered by social security and whether that coverage extended to the self-employed and agricultural workers. He wished to know whether Bulgaria maintained its rejection of unemployment and disability benefits as defined in the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), and whether it was considering ratifying the ILO Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) and the Equality of Treatment (Social Security) Convention, 1962 (No. 118). He also asked whether the inclusion in the Civil Servants Act of a minimum quota for the employment of persons with disabilities applied only to the public sector. He requested data on the employment of persons with disabilities since the launch of the Strategy for Equal Opportunities for People with Disabilities 2008–2015. He welcomed the rise in the minimum wage, but wondered how that wage and the average wage compared to the minimum subsistence level. Referring to paragraph 46 of the State party report regarding occupational safety, he asked to what extent regulations were complied with, whether the General Labour Inspectorate Executive Agency had adequate resources and how many workplace incidents, particularly fatal ones, had occurred since 2007.

55. **Mr. Abdel-Moneim** welcomed the fact that the Constitution guaranteed the right to work, with a particular emphasis on the protection of that right. Referring to paragraph 21 of the State party report, he asked what the nature of fixed-term contracts was. He also asked which aspects of the Government employment policy were State-funded. He pointed out that it was difficult to compare statistics when the base year was not the same across indicators. He was concerned that the Government's labour focus appeared to be more on the demand side than on the supply side.

56. **Mr. Sadi** asked under what conditions minors were granted work permits and to what extent the Programme towards the Elimination of the Worst Forms of Child Labour had been successful. Noting that, pursuant to the Labour Code, the Council of Ministers was responsible for setting the minimum wage, he asked what criteria the Council used and whether the minimum wage ensured a decent standard of living. He also asked what the justification was for denying civil servants in managerial positions the right to strike.

*Articles 10 to 12*

57. **Ms. Shin** commended the State party for its considerable efforts to combat trafficking, but asked why the number of victims had increased between 2008 and 2011. She wondered whether that was due to increasingly active investigation, resulting in more cases being identified and prosecuted.

58. **Mr. Riedel** said he regretted the lack of figures on mental health. Based on information provided to the Committee, it appeared that patients, especially persons



suffering from Alzheimer's, were often left to their own devices once they had been discharged from a mental institution, and he therefore asked how access to doctors, especially psychiatrists, was guaranteed. Referring to paragraph 155 of the replies to the list of issues, he requested examples of cases where compulsory treatment and placement had been appealed. In light of information that families had to bear the cost of medicines, he asked how the State addressed the particular vulnerability of marginalized populations. Given that medical professionals and hospital staff apparently lacked detailed guidelines on preventing maternal mortality, he wished to know whether research was being conducted on the causes of death in childbirth. He commended the adoption of the national programme to improve sexual and reproductive health 2012–2020, but asked what connections had been established between that issue and abortion.

59. **Mr. Ribeiro Leão**, noting that 14 per cent of the population lived below the poverty line, asked whether there was a national anti-poverty plan which took into account cross-cutting issues in order to address the needs of vulnerable groups.

60. **Mr. Martynov** asked what the fines were for violating child labour regulations and whether they were high enough to deter employers. He also requested recent statistics about street children. While the State party report recognized that there was a shortage of kindergartens, he said that it was wrong to blame the municipalities for that situation, as it was the State party as a whole that was responsible for implementing the Covenant. He asked why the number of kindergartens had fallen by 25 per cent between 2004 and 2008, whether the situation had remained critical in 2012 and what measures the Government had taken to redress it. The Committee had previously expressed its concern about the alarmingly high level of poverty and it appeared that the situation had not substantially improved, especially with respect to child poverty. Could the delegation provide recent facts and figures to allay the Committee's fears on that score?

61. **Mr. Sadi** requested additional information on "co-habitation", specifically whether it was similar to common law unions, whether it was legally recognized and governed by law and what rights the partners had. He urged the State party to adopt specific provisions governing the rights of children born out of wedlock, given that they seemed to encounter difficulties in matters of custody and inheritance. He asked what the State party's position was on same-sex marriage. He wished to know whether the Muslim community was permitted to conduct marriage ceremonies in accordance with Islamic law and, if so, whether that area of Islamic law conflicted with national legislation. He enquired whether Bulgaria had joined forces with other countries in the region to tackle trafficking for the purposes of prostitution and sexual exploitation. Lastly, he asked how the State party was preventing illegal abortions and ensuring access to contraception and what the current situation of HIV/AIDS was.

62. **Ms. Barahona Riera** asked what the current State expenditure was on health and whether there was still a funding shortfall. Noting that some health-care centres had been closed between 2004 and 2007, she wished to know the current number of facilities. She also asked what proportion of the population was actually covered by compulsory health insurance and to what services those who did not contribute to the scheme were entitled and what percentage that represented. It would be useful to know what the legal framework was for common-law spouses and what that status meant for their children.

*The meeting rose at 1 p.m.*