



Economic and Social Council

Distr.: General
5 March 2015
English
Original: French

Committee on Economic, Social and Cultural Rights

Fifty-third session

Summary record of the 48th meeting

Held at the Palais Wilson, Geneva, on Thursday, 13 November 2014, at 3 p.m.

Chairperson: Mr. Kedzia

Contents

Consideration of reports

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

Initial report of Montenegro

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-22223 (E) 040315 050315



* 1 4 2 2 2 2 3 *

Please recycle The universal recycling symbol, consisting of three chasing arrows forming a triangle.



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

Initial report of Montenegro (E/C.12/MNE/1; E/C.12/MNE/Q/1 and Add.1)

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

2. **Ms. Nikolic-Vucinic** (Montenegro) said that Montenegro had made significant progress, particularly in the field of legislation, since the submission of its initial report to the Committee in 2011. The Law on Prohibition of Discrimination, which had been amended in April 2014, was now fully aligned with European law and international norms. A bill to combat discrimination against persons with disabilities was being drafted, and a strategy aimed at improving the quality of life of the lesbian, gay, bisexual and transgender community had been adopted for the period 2013–2018. The Gender Equality Act was being amended to ensure alignment with the Law on Prohibition of Discrimination and international law. A bill on the prevention of corruption had been adopted in 2014. Furthermore, special units to deal with corruption, organized crime, terrorism and war crimes had been set up within the country's two high courts.

3. In addition, numerous legislative amendments had served to promote the employment of persons with disabilities; to raise school enrolment rates for children with special needs; to improve social benefits; and to strengthen child protection services. An integration strategy for persons with disabilities had been adopted for the period 2008–2016. The council for persons with disabilities, which brought together representatives of the public authorities and of civil society, was responsible for overseeing the implementation of the aforementioned provisions and the application of the regulations intended to facilitate the physical access of persons with disabilities to various infrastructures.

4. The Law on Right to Asylum had entered into force in 2006 and the centre for asylum seekers, which had opened in 2014, had 65 beds. In addition to the aforementioned provisions, a regional housing programme had been rolled out to provide 6,063 persons, including 1,177 vulnerable families, with housing. The Law on Social Housing of 2013 gave priority to Roma, Gypsies, displaced persons and foreigners in possession of a permanent or temporary residence permit.

5. A national employment and human resources development strategy had been devised for the period 2012–2015 on the basis of the Europe 2020 strategy. The law amending the Law on Employment had been adopted in 2011. The law had introduced the concepts of temporary work and paternity leave into Montenegrin law and had laid down the procedures to be followed in the event of labour law infringements. The new general collective agreement, signed on 20 March 2014, set out the rights and obligations governing relations between employers and wage earners.

6. An interdisciplinary approach was taken to combating human trafficking. A new anti-trafficking strategy for the period 2012–2018 had been adopted and the Criminal Code had been amended in 2013 with a view to combating trafficking more effectively. Furthermore, a strategy aimed at improving the health-care services offered to persons suffering from mental illnesses had been adopted in 2004 so as to offer options other than institutional internment, and the law on the protection of those persons had been amended in 2013 to bring it into line with the legislation of European Union countries.

7. The Constitution guaranteed the individual and collective rights and freedoms of minorities and foreign nationals. The Minority Rights and Freedom Act of 2006 established the mechanisms for protecting minority rights and a fund for that purpose had also been set up.

8. **Mr. Kerdoun** (Country Rapporteur) said that he welcomed the importance that Montenegro attached to the realization and protection of human rights in general and of economic, social and cultural rights in particular, as well as the ratification by the State party of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. He regretted, however, that civil society had not participated in the preparation of the initial report. He noted that the information and statistics provided to the Committee did not cover all areas equally.

9. Noting that corruption was rife in Montenegrin society, he asked how the Government combated that phenomenon, which was doubtless an obstacle to the evolution of society and to the realization of human rights. Moreover, given the significant number of minorities present in Montenegro, he requested the delegation to indicate the measures that it had taken to eradicate discrimination against minority groups.

Articles 1 to 5

10. **Ms. Bras Gomes** asked whether the law amending the Law on the protection of human rights and fundamental freedoms would accord the Ombudsman the status of a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). She also asked what stage the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights had reached in the process of accrediting the aforementioned institution. She wished to know whether there was a general law on discrimination that covered all the grounds of discrimination set out in the Covenant. She was surprised that none of the complaints filed with the Ombudsman seemed to concern cases of discrimination. She requested the delegation to explain the factors that had impaired the effectiveness of the measures provided for as part of the Decade for the Inclusion of the Roma (2005–2015).

11. **Mr. Atangana** asked whether high-ranking officials had been prosecuted for corruption and whether judges could work in total independence.

12. **Mr. Schrijver** asked whether Montenegro, as a transit country, was planning to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He enquired about the impact of external aid and bilateral and multilateral trade agreements on the realization of economic, social and cultural rights in the State party.

13. **Mr. Mancisidor** said that the information provided on corruption related almost exclusively to the construction sector whereas, according to a report prepared by the European Commission, corruption affected all sectors of activity. The Committee would therefore welcome additional information on that subject. He asked what action the State party had taken to honour the commitment it had made two years earlier to expand the rights of same-sex couples and to adopt a strategy to combat homophobia.

14. **Ms. Shin** commended the State party on having ratified the Optional Protocol to the Covenant. She asked how civil servants, judges and members of civil society, including human rights defenders in particular, were made aware of the Covenant and its Optional Protocol. As to the complaints received by the Ombudsman, the Committee would like to receive statistics disaggregated by grounds of discrimination, sex and place of residence. The Committee also wished to receive additional information on the proposal to amend the Gender Equality Act, the results of the corresponding plan of action for the period 2008–

2012, the difficulties encountered in its implementation and the content of the new plan of action.

15. **Mr. Sadi** asked whether the State party's laws were based on the Covenant and whether the Ombudsman took account of the Committee's work in its decisions. He enquired as to the relations between the different religious communities, particularly in schools where different religions were represented, and as to whether there were mechanisms in place for settling any possible disputes.

16. **Mr. Kerdoun** (Country Rapporteur) asked whether the State party planned to introduce a programme to protect and integrate refugees. Noting that there were still social and financial obstacles to the achievement of gender equality, he invited the delegation to indicate whether measures were envisaged to change mentalities and to overcome any budget-related issues.

17. **The Chairperson**, speaking in his capacity as a Committee member, said that statistics on the different forms of corruption should be provided so as to make it possible to gauge the extent of the phenomenon. Noting that journalists who had reported corrupt practices had been subjected to intimidation, he asked whether such acts were a common occurrence and whether protection was granted to whistle-blowers. He also wished to receive additional information on the ways in which the State party had sought to safeguard the exercise of economic, social and cultural rights in the context of the economic and financial crisis and the austerity measures that it had been obliged to adopt on account of the crisis.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

18. **Ms. Kalezic** (Montenegro) said that measures had been taken to combat corruption in the judiciary. Citizens could report corrupt judges anonymously to a service specially established for that purpose, which came under the authority of the Secretariat of the Judicial Council. As a result of those arrangements, a judge attached to the High Court of Justice had been the subject of criminal proceedings and had been sentenced to 7 years in prison. Montenegrin citizens could also file a complaint with the competent service of the Supreme Court. The service in question investigated each case, informed the author of the complaint of the outcome of the investigation and, if the facts were proven, referred the case to the Prosecuting Authority. As part of the efforts to prevent corruption, in March 2014, the Conference of Judges, which brought together all the judges in the country, had adopted a code of conduct in accordance with the United Nations Basic Principles on the Independence of the Judiciary, the European Charter on the statute for judges and Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on judges: independence, efficiency and responsibilities. Moreover, all courts would be required to devise and adopt a programme on rules of professional conduct by December 2014.

19. **Mr. Kojovic** (Montenegro) said that the independence of the judiciary was guaranteed by the Constitution. Judges had a 10-year term of office and could be removed from their functions only in cases expressly provided for by the Constitution. Judges were appointed by majority vote by the Judicial Council, which had been established in 2008. The criteria governing the appointment and career advancement of judges were laid down in the Law on Courts and the Law on the Judicial Council. The 10 judges who made up the Judicial Council served at all levels of jurisdiction and were appointed by a two-thirds majority vote of the Conference of Judges. Among them were two lay judges nominated by the President and two others nominated by the parliamentary commission for legal affairs. All the judges had at least five years of legal experience. The President of the Judicial Council was himself a lay judge. The Judicial Council included several committees, including committees responsible for disciplinary matters, appointments or the application

of the code of professional conduct. In the event of disagreement with a decision handed down by the disciplinary committee, the judge or the candidate for judge may enter an appeal before the administrative court.

20. In an effort to further strengthen the independence of the judiciary, the Constitution had been amended and amendments to the Law on Courts and the Law on the Judicial Council had been proposed with a view to introducing principles such as merit-based promotion.

21. Montenegro was committed to combating corruption. However, it should be borne in mind that the country was still in transition, having gained independence only in 2006, and that the problem of corruption was sometimes blown out of proportion by the media and NGOs. A strategy and a plan of action to combat corruption and organized crime had recently been adopted. Police stations and courts had special services responsible for dealing with those issues. Within the country's two high courts, the services in question dealt with the most serious cases of corruption and gave priority to those concerning the judiciary. The services for combating corruption and organized crime had sufficient resources and competence but often struggled to establish proof. To remedy that situation, police officers and judges underwent appropriate training, and meetings and workshops were organized with the participation of foreign experts.

22. In the interests of brevity, he said that, at a later date, he would transmit to the Committee by e-mail recent statistics on the cases dealt with, the different forms of corruption, the professions concerned, the rulings handed down by the courts and the penalties imposed.

23. **Ms. Nikolic-Vucinic** (Montenegro) recalled that Montenegro had benefited from significant international aid, especially from the United States, which had served to stabilize its economy in the early 2000s. From 2007 to 2009, Montenegro had been one of the leading destination countries for foreign direct investment, which had served to create jobs, modernize infrastructures and improve living conditions. During that period, Montenegro had enjoyed a growth rate of 8 per cent. The country was also a candidate for accession to the European Union and had chosen the euro as its official currency in 2002. Montenegro was also a party to the Central European Free Trade Agreement and had been a member of the World Trade Organization since 2012.

24. Montenegro was a magnet for migrant workers, who tended to be seasonal workers from Serbia, Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia. Work permits were subject to quotas and were mainly issued in the highly dynamic sectors of tourism and construction.

25. The exercise of economic, social and cultural rights was not curbed by budgetary constraints. Montenegro had always striven to protect the most vulnerable social groups. In 2013, as part of its response to the crisis, the Government had decided to raise the tax rates on higher income earners. Refugees were a particularly sensitive issue for Montenegro, as more than 30 per cent of the population was made up of migrants from neighbouring countries.

26. **Mr. Vucinic** (Montenegro) said that the Ministry of Labour and Social Welfare had adopted a strategy aimed at finding a lasting solution to the problem of displaced persons in Montenegro, namely by regularizing their status. In November 2013, the Ministry had taken the decision to extend the deadline for submitting applications for permanent residence or for a three-year residence permit. Since November 2009, 10,000 of the 12,000 applications submitted had been processed, while 2,000 were still pending.

27. In partnership with the Ministry of the Interior of Kosovo, the Government was working to integrate persons whose status had been regularized by providing housing in the

context of regional initiatives funded by donations from the international community and the European Union in particular. A social housing construction project in the Konik region had also been launched in September 2014. Another housing project for the benefit of older persons was also being implemented.

28. **Ms. Milic** (Montenegro) said that Montenegro had adopted a plan of action to combat corruption and had launched a campaign to raise parents' awareness of the problems that could arise in the education system, including the practice whereby certain teachers charged exorbitant fees to provide remedial tutoring for children with learning difficulties. A special hotline had been set up to receive complaints from parents and advise them to file a formal complaint if necessary. Seven formal complaints had been filed in that manner over the previous six months.

29. **Ms. Filipovic** (Montenegro) said that, in 2008, the Government had made it easier for building companies to obtain building permits, which had served to improve conditions in that sector. To combat corruption, the Law on social development had introduced a "one-stop shop" system to keep the number of persons involved to a minimum and to expedite the procedure, which should be amenable to completion online in the near future.

30. **Mr. Gjokaj** (Montenegro) said that, in the interests of ensuring the successful integration of minority groups in Montenegro, the Government had in 2014 adopted a law prohibiting discrimination, which had been drafted following consultations with the European Commission against Racism and Intolerance of the Council of Europe and international organizations active in the country. The council responsible for combating discrimination against the Roma community would play a fundamental role in that regard. In the wake of the conflicts that had taken place in the former Yugoslavia in the 1990s, Montenegro had taken in a large number of refugees of different nationalities and religions, many of whom had since returned to their home country. Displaced persons and Roma, many of whom had settled in the country, also accounted for a proportion of the Montenegrin population.

31. Montenegro had obtained satisfactory results in the context of the Decade of Roma Inclusion 2005–2015 and would continue on that track. The school dropout rate of Roma children and particularly that of girls had fallen. While they had yet to form their own political party, the Roma played a role in the political life of the country and were represented on electoral lists. The overriding objective of the policy to assist the Roma was to ensure their full integration, particularly in the case of Roma women. The Government was working to combat forced marriages but, in order to achieve that objective, it would first be necessary to change mentalities, which would take time.

32. **Ms. Nikolic-Vucinic** (Montenegro) said that 96.2 per cent of Gypsies had no training. Montenegro offered the Roma free access to health care and education, and invested heavily in facilitating their employment. The companies that employed them enjoyed benefits such as tax breaks. The ongoing voluntary repatriation project had enabled 120 displaced persons to return to Kosovo in October 2014.

33. **Ms. Kalezic** (Montenegro) said that the legal studies centre provided training to judges and prosecutors on the Charter of Fundamental Rights of the European Union and on economic, social and cultural rights. In July 2011, Montenegro had decriminalized defamation and libel in the context of the reform of its criminal justice system and, in several cases, journalists had been released. Only six sets of criminal proceedings had been initiated against journalists in 2014.

Articles 6 to 9 of the Covenant

34. **Mr. Ribeiro Leão** asked how the State party calculated its minimum wage and whether it was sufficient to cover families' basic needs.

35. **Ms. Bras Gomes** asked whether the State party was satisfied with the results of its programme to combat unemployment. She wished to know whether the State party envisaged amending its labour legislation to prevent companies from extending fixed-term contracts indefinitely, in order to combat precarious employment. Noting that, according to reliable sources, unemployment benefits were not sufficient to allow families to meet their needs, she asked how those benefits were calculated, in particular whether they represented the pro rata average of income received during the last months of paid employment, and whether the State party envisaged granting financial aid to families in which both parents were unemployed. Lastly, she wished to know whether the State party envisaged increasing family benefits.

36. **Mr. Martynov** asked what the overall unemployment rate had been in 2013 and 2014, and what the youth unemployment rate had been over the previous five years, disaggregated by year. He also wished to know the percentage of persons with disabilities in the State party and the employment rate of those persons over the previous five years; how their right to work was guaranteed in both the public and the private sector, including whether employment quotas were envisaged; and whether there was a policy to ensure that public places were accessible to those persons.

37. He also asked whether it was true that even low salaries were still not paid on time and, if so, how the State party planned to remedy that situation. The delegation was invited to indicate whether the State party allocated sufficient human and financial resources to the labour inspectorate to enable it to enforce labour law, and whether the labour inspectorate had the power to suspend the activities of a company where working conditions were reported to be hazardous. In that regard, the Committee would welcome data on the number of workplace accidents.

38. He invited the delegation to reply to questions 11 and 12 of the list of issues, on which the State party had provided no information in its written replies. Lastly, the delegation was also invited to indicate whether it was true that the minimum retirement pension stood at 45 euros, which corresponded to one quarter of the threshold for absolute poverty, and whether the strategy to combat poverty and social exclusion for the period 2007–2011 had yielded positive results.

39. **Ms. Ravenberg** wished to know whether sexual and reproductive health education remained optional in secondary education.

40. **Mr. Pillay** invited the delegation to reply to question 19 of the list of issues on the right to an adequate standard of living and enquired about the measures taken by the State party to assist, especially before winter, the many homeless people in the capital and other cities in the country. Noting that Camp Konik was not the country's only refugee camp, he asked how the State party planned to assist the 6,500 displaced persons who were still homeless; how many people had benefited from the Law on social housing of 2013; and what criteria had to be met to apply for social housing.

41. **Ms. Shin** asked what measures the State party envisaged taking to combat early marriage within the Roma and Gypsy communities in the north of the country; what the sex ratio at birth was; and whether a study had been conducted to determine whether selective abortion was practised in Montenegro. She also wished to know whether a violent partner could be separated from their family under the Law on protection against domestic violence, and, if so, whether the partner in question received psychosocial care. Lastly, the delegation was invited to indicate what percentage of the population used a method of contraception.

42. **Mr. Atangana** wished to know whether the children from the Ashkali and Gypsy communities were now registered at birth like Roma children. He considered that intrafamily violence was encouraged by the fact that victims seldom lodged a complaint

and that the penalties prescribed were too lenient. He invited the delegation to comment on that issue.

43. **Mr. Martynov** asked what had been the poverty rate for children, disaggregated by year and region, and the overall poverty rate over the previous five years; how widespread informal labour was in the State party; and whether informal workers had access to social protection.

The meeting rose at 6 p.m.