



Economic and Social Council

Distr.: General
11 June 2015

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-fifth session

Summary record (partial)* of the 31st meeting

Held at the Palais Wilson, Geneva, on Monday, 8 June 2015, at 10. a.m.

Chairperson: Mr. Sadi

Contents

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

Submissions by national human rights institutions and non-governmental organizations

* No summary record was prepared for the rest of the meeting.

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

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

Submissions by national human rights institutions and non-governmental organizations

Ireland

1. **Ms. Logan** (Irish Human Rights and Equality Commission) said that, over the past few years, rates of income and food poverty and youth unemployment had increased as a result of the recession. Human rights and equality had been adversely affected by the Government fiscal consolidation policies that had been negotiated with a troika made up of the International Monetary Fund (IMF), the European Commission and the European Central Bank (ECB). A parliamentary committee for human rights and equality should be set up, together with a national action plan on human rights.
2. The outsourcing of public health, education and social services to the private sector had made it difficult to ensure accountability for abuses of economic, social and cultural rights.
3. As to fair conditions of work, approximately 12 per cent of workers lived under the poverty line. She noted that a Low Pay Commission had been set up to review the national minimum wage and welcomed the fact that research on low-hour contracts had been commissioned.
4. Turning to gender equality, she said that much remained to be done, particularly in terms of the gender pay gap and low participation rates among women, with the lack of adequate childcare acting as a barrier to equal employment. Discrimination against older women, migrant women, single mothers and victims of domestic violence remained a significant problem.
5. Asylum seekers living in direct provision accommodation often waited for long periods, lasting up to seven years, before a decision on their status was made, which had a negative impact on their right to family life, mental health and their children's best interests. The rise in homelessness and the lack of social housing had been significantly exacerbated by the recession and the Government's failure to pull the country out of it.
6. Children and young people continued to be placed in adult mental health-care facilities owing to a shortage of age-appropriate accommodation and an increase in demand. The infant mortality rate was high within the Traveller community and many Roma could not afford health care.
7. **Mr. Conaty** (Irish Human Rights and Equality Commission) said that Ireland had not yet ratified the Convention on the Rights of Persons with Disabilities. Persons with disabilities faced a much higher cost of living, which was not reflected in the social security payments that they received, and were more likely than others to be unemployed or to work part-time. Key legislation dating back almost a decade on needs assessments for persons with disabilities and education for persons with special needs had not yet been fully implemented.
8. Oversight of residential services for persons with disabilities was provided by the Health Information and Quality Authority, which had established relevant standards and carried out inspection work. It was crucial that the inspection process should be robust and adequately resourced and that minimum standards of human dignity for persons with intellectual disabilities should be respected.

9. Under the Irish Human Rights and Equality Commission Act 2014, all public bodies had a duty to uphold human rights and equality and the Commission was committed to supporting State efforts to achieve that aim. Major progress had recently been made on civil marriage for same-sex couples and the rights of transgender persons. The Government should take a similar approach to social and economic rights.

10. **Ms. Blackwell** (Free Legal Advice Centres/Our Voice, Our Rights) said that Government efforts to tackle the recession had focused on protecting the banking system and State finances. That focus pointed to a structural gap in the country's decision-making systems and the lack of a mechanism to ensure accountability for human rights. The Covenant had not been incorporated into national law, and the rights under the Covenant were viewed only as guidelines by the courts and the Government. Institutions to combat poverty and racism had been shut down. The lack of data disaggregated by ethnicity, gender and other indicators made it difficult to measure and monitor respect for rights.

11. Areas of concern with respect to work included the widening gender pay gap, the rise in the number of youth not in education, training or employment, high unemployment among persons with disabilities, the narrow focus of the Low Pay Commission and the continued failure to establish employment rights for persons with disabilities in sheltered workshops. The State party must prioritize gender equity, strengthen legal protection for victims of trafficking in persons and other groups at risk of exploitation and extend the remit of the Low Pay Commission.

12. Poverty remained a significant problem, affecting in particular children, the unemployed, single parents, the Traveller and Roma communities and those unable to work owing to illness or disability. There was no national food and nutrition policy in place to ensure access to healthy food for all. Income levels were not taken into account when setting water charges. Health expenditure had been slashed during the recession and austerity measures had resulted in lengthy waiting lists, fewer public hospital beds and increased costs for patients.

13. The number of teachers had been reduced, along with educational support services, including for students with special needs and migrant children, clothing allowances and school grants had been abolished and transport charges had been increased. There was a need for a clear and practical long-term education strategy that covered all segments of society.

14. No national cultural policy had been put in place and persons from disadvantaged social and economic backgrounds were less likely to take part in cultural events than persons with more money. Access to public services and broadband Internet was limited in rural areas.

15. **Ms. O'Sullivan** (Community Law and Mediation) said that austerity measures had affected vulnerable and disadvantaged groups in particular. Government measures introduced since 2002 had limited the access of single-parent families to social protection, with many single parents being forced to remain unemployed owing to the lack of affordable childcare. Over the past few years, thousands of individuals had lost the right to childcare benefits because of cuts in public expenditure.

16. Social welfare legislation was being rushed through the parliament without any real discussions taking place. The process of granting benefits must be overhauled in order to avoid delays in payment and the Government must take into account the impact of its budgetary decisions on human rights and equality.

17. **Ms. O'Rourke** (Justice for Magdalenes Research) said that, between 1922 and 1996, women imprisoned in Catholic Church-run institutions known as Magdalene laundries had

been subjected to forced labour in inhumane conditions, denied education, kept under lock and key and punished for refusing to work.

18. **Ms. O'Donnell** (Justice for Magdalenes Research) said that the Government had delayed providing health care, support and advocacy services and educational and housing assistance for Magdalene laundry survivors. Beneficiaries of a Government ex gratia redress scheme had been required to sign away all legal claims against the State in order to receive cash payments. The Government was refusing to fully honour its promises relating to health care and counselling services for survivors and their families and no provision had been made for health care for survivors living abroad. She called on the Committee to urge the Government to implement the redress scheme in full and without delay and to carry out an independent, thorough investigation into the abuse.

19. **Mr. Lysaght** (Threshold) said that Ireland was currently undergoing a housing crisis, created in part by the unresolved legacy of mortgage arrears, which had put tens of thousands of people at risk of losing their homes and had also affected tenants in mortgaged properties. Increasing house prices and unregulated rent hikes were making it more difficult to meet basic accommodation needs.

20. Local authorities had failed to monitor and enforce minimum housing standards, negatively affecting the health and welfare of tenants. The lack of social and affordable housing meant that disadvantaged groups had difficulty in securing adequate accommodation and the number of homeless families was rising.

21. Members of the Traveller community faced obstacles when seeking culturally adequate housing. Asylum seekers housed in direct provision accommodation centres were subject to restrictions on their private lives and could not apply for certain welfare benefits, including housing support. The State party had opted out of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

22. Mobility allowances and other benefits for persons with disabilities had been cut. Furthermore, many persons with disabilities lived in substandard care homes and were denied the support required to live independently in the wider community.

23. **Ms. Walsh** (Tallaght Trialogue) said that it was necessary to put an end to coercive practices such as involuntary commitment and forced drugging within the Irish mental health system. Health-care providers should obtain the informed consent of patients, who should have the freedom to choose from a range of support services.

24. Given that many patients felt abused and stripped of their dignity, it was important to appoint an ombudsman to deal specifically with the mental health system and a "confidential recipient" to handle complaints about mental health services provided by the Health Service Executive. Moreover, the State party should be called upon to fund empowering, non-coercive forms of treatment based on peer support.

25. Ireland had not yet repealed a law on persons with intellectual disabilities dating back to the nineteenth century and was one of only three European Union member States not to have ratified the Convention on the Rights of Persons with Disabilities. The State party should appoint a special ombudsman for intellectual disabilities, end the use of chemical restraint, ensure that disability service providers showed compassion and empathy towards patients and their families, formulate a policy offering individualized solutions to persons with intellectual disabilities and take urgent action to enable patients to attain the highest standards of physical and mental health.

26. **Ms. Donnelly** (Atheist Ireland) said that Ireland had repeatedly ignored recommendations to respect the rights of atheists and non-Christians. There were still no non-denominational schools in the country and no effective remedies for violations of

Covenant rights. Schools could demand baptism certificates for the purposes of admission, no non-discriminatory alternatives were available to children who wished to opt out of religious instruction classes and, by law, a religious ethos prevailed throughout the entire school curricula, thus depriving children of a neutral studying environment. Recent bills on admission to schools and the protection of lesbian, gay, bisexual and transgender (LGBT) teachers failed to address discrimination on account of religion.

27. **Mr. Nugent** (Atheist Ireland) said that a number of national laws violated the rights of atheists and non-Christians provided for under the Covenant. Nevertheless, Ireland had no plans to adopt comprehensive anti-discrimination laws in line with article 2, paragraph 2, of the Covenant. The Constitution itself was incompatible with the instrument and there were no effective legal remedies for violations of Covenant rights. Despite commitments to the contrary, Ireland continued to use the concept of majority will to justify derogations from its human rights obligations.

28. **Ms. Taylor** (Irish Family Planning Association) said that, pursuant to the Protection of Life during Pregnancy Act of 2013, abortion was permitted only if the mother's life was at risk. Lawful abortions required the approval of as many as three doctors and were subject to review procedures that could last up to 10 days. The Act and the guidance issued to doctors on its implementation had not brought Ireland into compliance with the Covenant and women continued to face discrimination with regard to the enjoyment of the right to health. Indeed, under the Constitution, the right to life of the unborn foetus was given precedence over the mother's right to health.

29. The Irish people had never been offered the opportunity to broaden the grounds for lawful abortion despite the fact that opinion polls consistently showed strong support for such a move. Although the State did not prevent women from seeking abortion services in other countries, the financial and emotional burden of travelling abroad fell squarely on the shoulders of pregnant women and was particularly onerous for vulnerable groups, including minors and asylum seekers, who experienced disproportionate delays in receiving medical attention.

30. **Mr. Price** (Pro Life Campaign) said that there was neither a right to abortion nor a universal consensus on recognizing such a right in international law. The protection of the right to life of unborn children under national law was based on the profound moral and ethical values expressed by the people of Ireland in three separate referendums.

31. In the case of *A, B and C v. Ireland*, the European Court of Human Rights had reiterated its settled jurisprudence that the legal protection of the right to life of unborn children fell within States' margin of appreciation under the European Convention on Human Rights. Furthermore, article 6, paragraph 5, of the International Covenant on Civil and Political Rights, read in conjunction with article 31, paragraph 1, of the Vienna Convention, established that unborn children were holders of human rights. It was therefore regrettable that the Human Rights Committee had repeatedly criticized Ireland for not expanding the availability of abortion.

32. He drew the Committee's attention to a report by the World Health Organization entitled *Trends in Maternal Mortality: 1990–2010*, which placed Ireland fifth in a list of the safest countries in the world for pregnant women, ahead of countries where abortion was legal and widely available.

33. **Mr. Carr** (Family and Life) said that the Covenant did not contain a right to abortion; moreover, it acknowledged the human rights of unborn children in article 12, paragraph 2 (a). The decision by the Committee to address a matter that fell outside its remit at the behest of powerful and well-funded non-governmental organizations risked bringing the treaty monitoring process, and indeed the entire United Nations system, into disrepute.

34. Unborn children were living human beings from the moment of conception and, as such, were entitled to the same fundamental rights as all other persons. Any attempt to further liberalize abortion would be gravely discriminatory, as it would treat such children as non-persons before the law and violate their right to life. The Committee should not assume that the Irish public would back a proposal to amend the Constitution and deprive an entire class of human beings of the recognition of their rights. Moreover, no human rights committee should ever find itself in the position of arguing that some human beings did not deserve human rights protection.

35. **Mr. Thornton** (University College Dublin) said that asylum seekers in Ireland were generally refused social assistance payments, denied the right to work and placed in direct provision centres, where they could spend up to seven years, raising serious concerns over their mental health and possible violations of their rights to work, social assistance and adequate food, housing and shelter.

36. The habitual residence condition in Ireland had an impact on the right to social security and assistance. Victims of domestic violence, asylum seekers and Irish travellers all faced the risk of destitution because of a lack of access to core social assistance payments. Irish travellers, who suffered significantly from discrimination, were not recognized as an ethnic group by the Government and encountered barriers to the labour market, equal health care, culturally appropriate accommodation and the right to education.

Chile

37. **Mr. Rivera** (Observatorio de Derechos Humanos y Legislación) said that lesbian, gay, bisexual, transgender and intersex (LGBTI) persons experienced discrimination and bullying in school and in the workplace. Transgender persons were particularly vulnerable and often had difficulty in updating their identity documents. In many cases, they were excluded from formal employment altogether. In schools, transsexual persons were forced to conform to gender-specific dress codes.

38. He called on the State party to, inter alia: bring its definitions of sexual orientation and gender identity under national law into compliance with international standards; promote inclusive education and respect for the gender identity of children and adolescents in schools and health facilities; adopt the gender recognition bill that was currently before the National Congress; develop a sex education programme based on human rights principles; increase the participation of LGBTI persons in the public and private sectors and grant them equal rights to social security and health care; legislate on equal marriage; amend Act No. 19.779 of 2001 to ensure non-discrimination and introduce targeted measures to prevent HIV/AIDS; reform the pension system based on individual accounts, which discriminated against LGBTI persons and women in particular, as they tended to be absent from the labour market for longer periods than others; and amend domestic legislation to regulate the legal status of children with same-sex parents.

39. **Mr. Aubry** (Global Initiative for Economic, Social and Cultural Rights) said that the large-scale privatization of education in Chile had led to dramatic inequalities that had long-lasting discriminatory effects. As an example, students who attended private schools earned 18.5 per cent more in their first job than public-school students with equal skills.

40. Although the Government should be credited for the educational reforms that it was undertaking, more needed to be done to prevent violations of the right to education and non-discrimination. Firstly, the Government should conduct a human rights impact assessment of privatizing the education system, which could serve as a model for dozens of developing countries. Secondly, the proposed reforms should go further to ensure that Chile met its human rights obligations under the Covenant. In particular, the Government should ban private schools from making a profit, eliminate entry tests and interviews, reverse the

process of devolving education services to the municipalities and eliminate the school voucher system.

41. **Mr. Milliman** (Observatorio de Derechos de Pueblos Indígenas) said that the Government of Chile still failed to recognize the constitutional rights of indigenous peoples, in particular their right to land; it had also failed to make reparations for confiscated ancestral lands or to recognize land titles that predated the establishment of the State. The right of the indigenous peoples to be consulted on measures that might affect them had not been respected, and existing laws to regulate the use of indigenous land had major shortcomings. Moreover, the National Congress continued to adopt laws that affected the territories and resources of indigenous peoples without consulting them. Mining and forestry projects were carried out on their lands without their consent, violating their rights to economic development and excluding them from its benefits. Referring to article 2 of the Covenant, he said that the indigenous peoples were also the victims of persecution and violence by the police, as had been recognized by the higher courts.

42. According to recent surveys, the indigenous population was poorer than the non-indigenous population, and some of the poorest areas of the country were where the greatest investments in natural resources had been made. Indigenous persons had less access to education and lower literacy rates than non-indigenous persons. Educational policies had also led to decreased use of indigenous languages, and there were fewer indigenous persons who spoke their native languages correctly. Nor were indigenous languages sufficiently disseminated by the media.

43. The Observatorio de los Derechos de Pueblos Indígenas had prepared a report to the Committee, which he urged the members to read. He exhorted the Committee to call on the Government of Chile to bring its laws into conformity with international standards and to recognize the rights of the indigenous peoples of the country.

44. **Mr. Aylwin** (Observatorio Ciudadano) said that the Observatorio Ciudadano had analysed the Committee's concluding observations (E/C.12/1/Add.105) on the third periodic report of Chile, which had been considered in 2004, and had concluded that, with some isolated exceptions, the recommendations put forward had not been fulfilled.

45. Although unemployment had decreased, it was still higher among women than among men, and 40 per cent of employed workers enjoyed no labour protections. The minimum wage was less than \$300, and almost a third of all Chileans lacked the money to cover their basic food needs. Of all the Organisation for Economic Co-operation and Development member countries, Chile had the highest rate of income inequality.

46. In 2011, some 90 per cent of all companies had no unionized workforce and only about 14 per cent of workers were unionized. About 90 per cent of all pensioners received pensions amounting to under \$300 on average, or less than 30 per cent of what their incomes had been. The Government had reduced the housing deficit by building apartments and houses, but they were small and overcrowded. Though more of the gross domestic product was devoted to health than before, families had to bear around 40 per cent of health-care costs, which low-income families could not always afford.

47. While appreciating the Government's efforts to reform the current for-profit education system, the Observatorio Ciudadano took note of a number of challenges. The Constitution of 1980 favoured the freedom to choose between services offered by the State and those offered by private entities, making Chile a segregated and unequal society. The Special Rapporteur on extreme poverty and human rights had recommended that the constitutional review currently under way should take into consideration all the rights covered by the Covenant.

48. He noted with concern that the Government had concluded free-trade and bilateral agreements with more than 60 States without the approval of the National Congress or public consultation, in particular with indigenous peoples, and that they contained clauses that favoured investors and limited the State's capacity to regulate social and environmental matters. The United Nations *Guiding Principles on Business and Human Rights* called for adherence to human rights when concluding agreements with States or enterprises. Other areas of concern included the negotiations of the Government of Chile within the framework of the Trans-Pacific Partnership – the proposed regulatory and investment agreement which raised issues related to intellectual property, the Internet and financial markets.

49. However, the biggest cause for concern was the Government's lack of control over companies with headquarters in Chile that operated abroad in ways that adversely affected human rights. Forestal Arauco S.A., operating in Chile, Argentina, Brazil and Uruguay, to name an example, had been denounced for the failure to abide by labour standards, violations of occupational health and safety, environmental degradation and harassment of local populations by means of evictions, intimidation and violence. Another example was the State-owned copper mining company Codelco, whose plans to expand its mine operations had the potential for significant environmental harm.

50. The Observatorio Ciudadano recommended institutional and constitutional reforms to better protect Covenant rights; transparent constitutional reform with the full participation of the Chilean people so that it might exercise in full its right to self-determination; the adoption of measures to ensure that any free-trade agreements or any arrangements under the Trans-Pacific Partnership did not result in violations of economic, social and cultural rights; and the incorporation of such principles into the future national action plan on businesses and human rights.

Uganda

51. **Mr. Ekapu** (Ugandan National Coalition on Economic, Social and Cultural Rights) said that he was speaking on behalf of a coalition of 200 non-governmental organizations. Unemployment and underemployment in Uganda had soared in recent years. In addition, only 8 per cent of city dwellers had piped water and sewage services, and rapid population growth and unplanned urbanization had put a strain on the supply of safe water and the capacity to provide for adequate sanitation. Despite progressive laws, little effort had been made to protect the rights of families; there were now 10,000 street children in Uganda, and no systematic programme for their rehabilitation and reintegration into a family environment had been devised. The country was culturally marginalized owing in part to the lack of a culture ministry and of public funding for culture.

52. The Coalition recommended that the Government should: generate employment, especially for young people, a measure that would require reforming school curricula to prepare students to enter the labour market; ensure that all Ugandans had access to safe drinking water; adopt a comprehensive plan to deal with street children; and establish a national department for the planning and holding of cultural programmes.

53. **Mr. Nkuubi** (Human Rights Network Uganda and DanChurchAid) said that Uganda lacked the necessary legislative and institutional frameworks to ensure that people could exercise their right to adequate food. The national food and nutrition strategy, which was designed to provide food to flood-prone communities, among others, had therefore not been implemented. A bill on food and nutrition, under which food was regarded as a human right, had been pending adoption since 2008. The Ministry of Agriculture, Animal Industry and Fisheries was underfunded, and the Government was falling far short of its obligations under the 2003 African Union Maputo Declaration on Agriculture and Food Security to

allocate 10 per cent of its budget to agriculture. Corruption within the National Agricultural Advisory Services Programme, which was meant to enhance food security, was rife.

54. Under a new bill on NGOs, the ability of non-governmental and civil society organizations to influence public policy would be restricted, as would the right to self-determination provided for under the Covenant. If passed, the bill would establish an NGO board with discretion to take disciplinary measures against and to blacklist organizations; to refuse to register organizations on the grounds that they would not serve the public interest; and to determine whether the work of a given organization might be prejudicial to national security. The language used in the bill was too broad, and therefore open to abuse.

55. The Human Rights Network Uganda and DanChurchAid therefore recommended that the Committee should urge the Government of Uganda to allocate at least 10 per cent of its budget to agriculture, to approve the national food and nutrition strategy and to halt the passage of the NGO bill in its current form; the Government should instead enter into a nationwide consultation to ensure that the bill represented the will of the people and was compatible with international human rights standards.

56. **Mr. Kayiira** (FIAN International), speaking on behalf of the Mubende community, said that redress had not been provided to the families evicted from their land by Kaweri Coffee Plantation Ltd, a subsidiary of the Neumann Kaffee Gruppe. The Ugandan High Court had found in favour of the Mubende community following a 10-year legal battle, but the companies concerned had subsequently appealed against the verdict. It was therefore hoped that the Committee would urge the Ugandan Government to establish mechanisms for the restitution of the community's ancestral lands and compensation for the damages caused by the eviction.

57. **Ms. McKernan** (Global Initiative for Economic, Social and Cultural Rights) said that land grabbing and forced evictions posed major threats to the right to adequate housing and an adequate standard of living in Uganda and had given rise to an increase in land disputes, particularly in the oil-rich regions of the country. Affected communities had not been adequately consulted or compensated for the loss of their lands and were often plunged into poverty as a result. In addition, Government policy often reinforced prevailing discriminatory practices against women and prevented them from enjoying land rights on an equal basis with men. Efforts should therefore be directed towards implementing a comprehensive national policy to uphold the land rights of rural communities and to publicize information about large-scale land acquisitions in order to increase transparency and monitoring. Discriminatory land ownership laws should also be amended and land taken without prior consent or consultation should be returned to the communities affected or, if that was not possible, land of equal value and compensation should be provided in its place.

58. **Ms. Namusobya** (Initiative for Social and Economic Rights) said that the privatization of the school system had restricted access to basic education for the most vulnerable groups, particularly girls. Measures must therefore urgently be taken to reduce the gap in education levels between the rich and the poor communities and increase the amount of national budget spent on State schools. As for access to health care, the introduction of a national health insurance scheme aimed at building a strong and resilient national health-care system was a step in the right direction. However, the Government must ensure that the scheme was appropriately managed so that it was able to guarantee access to high-quality medical treatment for the entire population, including vulnerable groups.

59. **Mr. Musinguzi** (Coalition of Pastoralist Civil Society Organizations) said that pastoralists in Uganda faced discrimination at all levels. National conservation projects and government land developments had negatively affected their livelihoods and had restricted

access to lands that they had previously relied upon for pasture and herding livestock. It was therefore hoped that the Committee would urge the Ugandan Government to recognize pastoralists as an indigenous people and uphold their social, cultural and economic rights. In addition, the National Land Policy must be implemented at the earliest opportunity so that the land rights of pastoralist communities were protected, including the possibility of forming communal land associations. The Government should also consider adopting the draft rangeland management and pastoralism policy which aimed at providing the sustainably managed, socioeconomically productive and environmentally stable rangeland resources that were required for pastoralists' livelihoods.

60. **Mr. Hueting** (International Commission of Jurists) said that LGBTI persons faced considerable discrimination in Uganda and were unable to exercise some of their economic, social and cultural rights following the entry into force of the 2014 Anti-Homosexuality Act. It was therefore imperative that the Committee should urge the Government to amend discriminatory provisions of national legislation, including section 145 (a) of the Criminal Code, and repeal the prohibition of promotion of unnatural sexual practices bill. Efforts should also be directed towards encouraging the introduction of concrete measures aimed at eliminating discrimination based on sexual orientation or gender identity and guaranteeing equal access to education, employment, housing, health care and justice by LGBTI persons.

61. **Ms. Papa** (Franciscans International) said that birth registration rates remained low in Uganda and the birth registration process was costly and complicated. Persons residing in rural areas often had to travel significant distances to obtain a birth certificate and children without birth certificates were more vulnerable to human rights violations, such as early marriage or child labour. It would therefore be greatly appreciated if the Committee could urge the Government to make information on the birth registration process readily available and to amend national legislation so that it upheld the right to free and universal birth registration.

The discussion covered in the summary record ended at noon.