

Spain, CEDAW, A/59/38 part II (2004)

316. The Committee considered the fifth periodic report of Spain (CEDAW/C/ESP/5) at its 649th and 650th meetings, on 7 July 2004 (see CEDAW/C/SR.649 and 650).

Introduction by the State party

317. In introducing the report, the representative of Spain noted that the March 2004 elections had produced a change in the nation's political direction. The initiatives of the current Government, which consisted of eight male and eight female ministers, reflected its strong commitment to gender equality. Some of the more noteworthy initiatives included the establishment of the General Secretariat for Equal Opportunities Policy, which ranked as a ministerial department within the Ministry of Labour and Social Affairs and was headed by a deputy minister; greater incorporation of gender mainstreaming and improved coordination of the departments in charge of equality at the different Ministries; and the preparation of the first draft of Organic Law 4/2000 on comprehensive protection measures against gender-based violence, which had been submitted to the Cortes Generales for adoption and might enter into force in 2005.

318. The representative pointed out that public policies on women's rights had been promoted through the Plans on Equal Opportunities for Women and Men, which had been adopted by the Council of Ministers. Four Equal Opportunity Plans had been operating since the establishment of the Institute for Women's Issues in 1983. The fourth Plan, which spanned 2003-2006, covered virtually all administrative action introducing gender mainstreaming in the fields of education, employment, the economy, health, social security, justice, the interior, immigration, etc. The following plans had also been promoted: the annual Plans of Action for Employment of the Kingdom of Spain, the Comprehensive Family Support Plan, the National Plan on Social Inclusion and the Equal Opportunity Plans for Autonomous Communities. The representative recognized that, in spite of the progress achieved in promoting gender equality, greater action needed to be taken in the fields of education, employment and political participation.

319. The representative drew attention to the action already taken by the Government to achieve gender equality; she specifically mentioned the positive action measures and programmes designed to eliminate the stereotypical image of women in the mass media. Monitoring units had been set up in several fields, including advertising, where the unit functioned as a forum for complaints about sexist advertising; equal opportunities; and gender-based and domestic violence. The objective was to increase awareness in each field and to monitor and facilitate the positive action measures.

320. The representative described the Government's plans for women who were clearly vulnerable because of their status or because they belonged to another race or ethnic group. This included migrant women, childminders, the disabled and heads of households. She pointed out that migrant women comprised 45 per cent of the

migration flow in 2003 and commented that, in spite of their vulnerable situation, they had access to basic services and legal aid in cases of maltreatment. She pointed out that rural women working primarily in agriculture continued to be affected by depopulation, ageing and lack of professional training. She also noted that trafficking of women and children was a problem that needed to be addressed as a matter of urgency and that a comprehensive intervention strategy should be drawn up, taking into account the problem of prostitution. The Government planned to promote an open debate between civil society and the institutions involved with a view to establishing a system of protection and assistance in entering the work force. With respect to parity of the sexes, the Government intended to amend the Constitutional Act on the General Electoral Regime in order to achieve a balance of women and men.

321. The representative mentioned that, during the period covered by the fifth periodic report, Spain had ratified several international agreements which had become a part of the domestic legal order. These included: the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force in October 2001; the Additional Protocol to the European Social Charter; and the supplementary Protocols, namely the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

322. In conclusion, the representative reaffirmed the Government's commitment to achieving gender equality and the delegation's willingness to participate in constructive dialogue.

Concluding comments of the Committee

Introduction

323. The Committee commends the State party for its fifth periodic report, although the report exceeds the 70-page limit for periodic reports. The Committee also commends the State party for the oral presentation, which added information about the situation of women as well as the Government's perspective of the approach to be taken to gender equality and the elimination of discrimination against women.

324. The Committee commends the State party for its delegation, headed by the Secretary-General of Equal Opportunities Policy of the Ministry of Labour and Social Affairs of Spain and composed of representatives of different ministries with expertise in a wide range of areas covered by the Convention. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee, the written responses and further clarification to the questions orally posed by the Committee.

325. The Committee notes with satisfaction that the State party has taken account of the Beijing Platform for Action in drawing up the fourth Plan on Equal Opportunities for Women and Men (2003-2006) and that the plan is inspired by two fundamental principles, namely close cooperation among public administrations, social interlocutors,

non-governmental organizations and society at large and gender mainstreaming.

Positive aspects

326. The Committee commends the State party for the appointment of an equal number of women and men to ministerial posts within the new Government and the high level of commitment and political will to achieve gender equality that this demonstrates.

327. The Committee welcomes a significant number of initiatives aimed at achieving gender equality and eliminating discrimination against women, including the fourth Plan of Action for Equal Opportunities, the Second Comprehensive Plan against Domestic Violence, the Optima Programme for women in business and the creation of monitoring institutions, which cover progress in the areas of equal opportunities, women's health, advertising and domestic and gender violence. The Committee also welcomes the annual Plans of Action for Employment, the Social Inclusion Plan and the Comprehensive Family Support Plan, all of which include a gender dimension.

328. The Committee welcomes the fact that gender equality and the promotion and protection of human rights and fundamental freedoms are among the principles, objectives and priorities of the State party's policy on international development cooperation.

329. The Committee notes with appreciation that the State party has ratified the Optional Protocol to the Convention.

Principal areas of concern and recommendations

330. The Committee expresses concern that, while the concept of equality of opportunities for women and men is based on a number of constitutional precepts, including the prohibition of discrimination on grounds of sex, no specific definition of discrimination against women in line with article 1 of the Convention has been included in domestic legislation.

331. The Committee recommends that a definition of discrimination against women as set out in article 1 of the Convention be included in domestic legislation.

332. Notwithstanding the State party's efforts to widely disseminate information on the Convention, the Committee remains concerned about the persistence of patriarchal attitudes and deeply rooted stereotypes regarding the role and responsibilities of women and men in the family and in society, which are considered by the Committee to be a root cause of gender-based violence and women's disadvantaged situation in a number of areas, including in the labour market.

333. The Committee calls upon the State party to take additional measures to eliminate stereotypical attitudes about the roles and responsibilities of women and men, including through awareness-raising and educational campaigns directed at both women and men and at the media, and carefully monitor the impact of such measures. It calls upon the State party to redouble its efforts to disseminate information on the Convention, the Optional Protocol

and the Government's commitment to gender equality. It recommends that the State party make targeted efforts at advancing the understanding of parenting as a social responsibility of both mothers and fathers. It recommends that the media be further encouraged to project a positive image of women and of the equal status and responsibilities of women and men in the private and public spheres. The Committee requests the State party to provide in its next report more detailed information on its efforts to disseminate information about the Convention and the Optional Protocol.

334. While welcoming the efforts of the State party to address violence against women, including the adoption of the second Comprehensive Plan against Domestic Violence (2001-2004), the Committee is concerned about the prevalence of violence against women, particularly the alarming number of reported murders of women by current and former spouses or partners.

335. **The Committee calls upon the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of their human rights. In particular, the Committee underlines the need to adopt, implement and monitor the effectiveness of laws and policies in accordance with the Committee's general recommendation 19, in order to prevent violence, provide protection, support and services to the victims and punish and rehabilitate offenders. It recommends that the State party ensure that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women. The Committee also invites the State party to undertake sustained awareness-raising measures through the media and public education programmes to reinforce the notion that such violence is socially and morally unacceptable, and constitutes discrimination against women.**

336. While commending the State party for its legal and other measures against trafficking in women and girls, the Committee expresses its concern about increasing incidence of trafficking in women and girls. It is concerned about the situation of trafficked women, particularly those who claim refugee status on grounds of gender-based persecution.

337. **The Committee urges the State party to increase its efforts at international cooperation with countries of origin and transit, within and outside of the European Union, both for dealing with the economic forces that make women victims of trafficking and for the prevention of trafficking through information exchange. The Committee further calls on the State party to take all appropriate measures to suppress exploitation of prostitution of women, including discouraging the demand for prostitution. The Committee also urges the State party to continue to collect and analyse data from the police and international sources, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls. The Committee calls on the State party to ensure that trafficked women and girls have adequate support to be in a position to provide testimony against**

their traffickers. It further urges the State party to afford full protection under the 1951 Geneva Convention on Refugees, inter alia, to trafficked women who seek asylum on grounds of gender-based persecution in line with the latest developments in international refugee law and the practice of other States.

338. Noting that since 1999, there has been a quadrupling of immigration into Spain, the Committee is concerned about the multiple forms of discrimination migrant women, including those who are undocumented, may face by public authorities, private employers and individuals, as well as the difficulties in becoming integrated into Spanish society.

339. The Committee urges the State party to take effective measures to eliminate discrimination against migrant women, both within immigrant communities and in society at large, and to ensure that the women concerned are made aware of available social services and legal remedies and are being supported in accessing them.

340. While noting an increase in women's political participation at the national, legislative and executive level, the Committee remains concerned that the representation of women in political life is still low.

341. The Committee recommends that the State party consider amending the Constitutional Act on the General Electoral Regime in order to achieve a balance of men and women in political office. It further suggests that the number and placement of women candidates on the electoral lists of political parties be a factor in determining the allocation of grants to them.

342. The Committee is concerned at the under-representation of women in senior positions in some areas of professional and public life, such as the judiciary and the Foreign Service, particularly at the highest echelons.

343. The Committee recommends that proactive policies for women's increased participation at those levels be adopted and, when appropriate, temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25 be taken to ensure the acceleration of the achievement of women's real empowerment on equal terms with that of men.

344. The Committee is concerned that Roma women remain in a vulnerable and marginalized situation, especially with regard to education, employment, housing and health.

345. The Committee recommends that the State party promote and protect the human rights of Roma women, in particular with regard to their access to education, employment, housing and health.

346. Despite the progress made by women in education in recent years, the Committee remains concerned about discrimination in this area, in particular about early drop out rates from school of Roma girls.

347. The Committee recommends that the State party intensify its efforts to promote the access of Roma girls to education and their retention in the system. It recommends that the State party conduct research into the subject and, on the basis of its findings, provide incentives to Roma parents to encourage them to ensure that their daughters attend school.

348. The Committee is concerned about information that women who begin doctoral studies do not complete their dissertations at as high a rate as men.

349. The Committee recommends that the State party increase women's access to resources, including grants, and to childcare facilities, to enable them to complete their dissertations at the same rate as men do.

350. The Committee is concerned about the continuing high level of unemployment among women that is reported twice that of men, the high number of women in part-time and temporary jobs as well as the wage discrimination faced by women. Furthermore, the Committee is concerned at the high proportion of women in the service sector, indicating a sex-segregated labour market with a negative impact on women's wages.

351. The Committee calls upon the State party to intensify its measures to increase women's employment, to make sure that women have access to full-time and permanent jobs if they wish, and to promote equal pay for equal work and work of equal value. It also calls upon the State party to promote participation by women in sectors traditionally regarded as male and vice versa.

352. In spite of the State party's expressed reluctance, the Committee encourages the State party to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention.

353. Taking account of the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions, such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Second World Assembly on Ageing, the Committee requests the State party to include in its next periodic report information on the implementation of aspects of those documents relating to relevant articles of the Convention.

354. The Committee notes that States' adherence to the seven major international human rights instruments, i.e. the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political

Rights (CCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC) enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Spain to consider ratifying the treaty to which it is not yet a party, i.e. the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

355. The Committee requests the wide dissemination in Spain of the present concluding comments in order to make the people, in particular government officials, politicians, parliamentarians and women's non-governmental organizations aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in this regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".