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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 2 May 2007, at 3 p.m.

Chairperson: Mr. TEXIER

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

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 8) (continued)

Third periodic report of Hungary (E/C.12/HUN/3); core document (HRI/CORE/1/Add.11); concluding observations of the Committee on the second periodic report of Hungary (E/1993/22-E/C.12/1992/2, paras. 150 to 154); list of issues (E/C.12/HUN/Q/3); written replies of the Government of Hungary to the list of issues (E/C.12/HUN/Q/2/Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Hungary took their places at the Committee table.
2. The CHAIRPERSON welcomed the delegation of Hungary and invited it to present the State party's third periodic report.
3. Ms. KARDOSNE (Hungary) assured the Committee that the Hungarian authorities were fully committed to implementing the provisions of the Covenant, which the State party considered to be one of the most important instruments among the many it had ratified, either regionally or within the United Nations system. Quite recently, Hungary had in fact taken an active part in preparing the Convention on the Rights of Persons with Disabilities adopted by the General Assembly in December 2006, which it intended to ratify in the near future. The Covenant itself had been fully incorporated in the Hungarian legal system at the time of ratification in 1976, soon after it had come into force.
4. Since the 1990s, the country had had to adapt to a rapidly changing world, which had led it to restructure and modernize its legal system in the light of the new legislation introduced by the European Union and international rules. One of the most significant changes which had occurred since the presentation to the Committee of the second periodic report was the emphasis placed, as a result of Hungary joining the European Union in 2004, on the definition of strategies and complete programmes covering longer periods than previously in all areas.
5. It was also worth mentioning the 2003 Act on Equal Treatment and the Promotion of Equal Opportunities. With that legislation, Hungary for the first time in its history had introduced a complete set of rules against discrimination, defining its different forms - including direct and indirect discrimination, harassment, segregation and retaliation, in accordance with the corresponding European directives. It had also set up a body authorized to receive and examine individual complaints by persons seeking redress for discrimination and to impose fines.
6. Hungary had adopted the European Union's Lisbon Strategy, which it had used as a basis for its own national action programme for growth and employment, establishing the country's main macroeconomic, microeconomic and employment objectives for the period 2005-2008. The National Strategy for Social Protection and Resettlement included measures designed to combat

poverty and social exclusion as well as to ensure the effectiveness and continuity of the pension system. The reforms required in that area had been the subject of much debate in political circles and among the social partners since 2006.

7. Changes had been made in the system of family allowances in order to put right certain inequalities and more generally the whole system of social benefits had been reformed. On that point the members of the Committee could refer to the Government's written replies to the list of issues. Social security expenditure currently amounted to 21.4 per cent of GDP, which was less than the average for countries of the European Economic Space but in line with the country's economic situation. Studies showed that the Hungarian social welfare system was in fact effective in terms of its impact on reducing inequalities and poverty. It still needed to be adapted for an aging population.

8. At the Government's initiative, a national strategy in favour of children had been adopted by Parliament, whose initial objectives were to reduce poverty substantially among families within a generation, to promote equal opportunities in education, to eradicate the most extreme forms of exclusion and poverty, as well as to change the habits and operating modes of institutions and service providers, which were partly responsible for the spread of poverty and exclusion. The policy of equal opportunities had in fact been one of the authorities' main priorities for a number of years, with special emphasis on equal opportunities - particularly in the labour market - for women, the disabled and the Roma community. The practical measures introduced in that respect were explained in the Government's written replies to the list of issues.

9. The policy in favour of the promotion and social resettlement of the Roma population had been maintained with the addition of a strategic plan for the period 2007-2015. The Equal Treatment Authority had also played a useful part in changing attitudes and value systems. Its increased workload showed that more and more citizens were becoming aware of and claiming their rights.

10. In the belief that it was preferable in order to combat inequalities in the labour market to improve job opportunities rather than hand out benefits, the Hungarian Government had developed and adapted new vocational and adult training facilities, which had been placed under the responsibility of the Ministry of Social Affairs and Labour.

11. In the area of health, the Government was endeavouring to rationalize the size and structure of the hospital sector and the prescription and consumption of medicines, to strengthen the principle of insurance by increasing the proportion of services paid directly by the patients, while at the same time improving institutional capacities, and to improve the quality of care and supervisory activities. A public debate was currently being held, with advice from the specialists, concerning long-term models of sickness insurance. While modernizing the health sector, the authorities were continuing to implement the national public health programme, which concentrated on preventing and treating the main avoidable causes of death, such as cancer and cardiovascular disease, as well as to promote healthy lifestyles.

12. Since 2004, the education system at all levels had undergone reforms within the framework of the first national development plan, with quality and effectiveness as its key objectives. The aim was to develop education based on competence, new forms of learning and computing and

language skills, to introduce unified standards for the assessment of students' and teachers' results, to establish links between formal, non-formal and informal education, to modernize the initial and ongoing training of teachers, and to adapt educational content to the requirements of the labour market.

13. In order to guarantee equal opportunities for all students, the Public Education Act had been amended in 2003 in order to offer better facilities for children with special needs. The resulting expenditure, for example, on grants to students of the Roma minority, had been provided for in the national budgets since 2003. Special programmes, such as the vocational schools or "second chance" schools programme, aimed to provide disadvantaged students with an opportunity to find work thanks to new forms of education that ensured a transition between education and employment.

14. In order to become part of the European higher education system and to promote economic growth resting on knowledge-based and innovative industries, higher education had to concentrate on the principles of performance, practical training and mobility. Higher education establishments had to be further developed in the regions - in view of the excessive dominance of the capital in that respect - while more students had to be directed towards scientific and technical studies.

15. The country's modernization policy was also transforming the cultural sector. The Minister of Culture had recently issued a broad ranging plan of action devoted to cultural modernization, which highlighted the potential role played by culture in forestalling social conflict. The aims of the plan included generalizing access to cultural assets, removing obstacles in the way of disadvantaged or disabled persons seeking access to culture, preserving the Hungarian and world cultural heritage, integrating the values of minorities in Hungarian and European culture, and establishing an effective institutional system for the financing and promotion of cultural development.

#### Articles 1 to 5 of the Covenant

16. Mr. PILLAY commented that the position of the Covenant in the Hungarian legal system was not clear; in their introductory statement, the delegation had said that the Covenant was fully part of the system, but it appeared, from reading the third periodic report and written replies, that certain of the Covenant's rights, such as the rights to cultural life, social security, health and housing, were not enforceable before the courts. That was a major problem which called for an explanation, since by ratifying the Covenant the State party had undertaken an obligation to apply all its provisions.

17. Mr. KERDOUN, while noting that the Covenant had been incorporated in Hungary's legal system, expressed surprise at the fact that the Constitutional Court established distinctions between rights and decided which rights should take precedence over others. He would like clarification in that respect. He also wanted to know the State party's position regarding the adoption of an optional protocol to the Covenant, allowing individuals to lodge complaints against violations of the Covenant's provisions before the Committee.

18. Mr. ATANGANA expressed concern that the Hungarian legal system did not appear to offer full guarantees of transparency and asked whether the State party was considering modernizing it. He also wanted to know what measures the State party was planning in order to improve legal institutions and especially to make up for the shortage of judges.
19. Mr. SADI enquired whether the transition from a planned economy to a market economy in Hungary had changed the attitude of the public authorities towards the Covenant. He would like information concerning cases in which reference had been made to Covenant articles before the courts. He welcomed the State party's legislation against discrimination but wondered about the problems that might arise when it was applied locally. He asked whether Hungary had adopted a general policy of integration, assimilation or segregation with regard to minorities.
20. Mr. RZEPLINSKI asked why Hungary had still not ratified major United Nations and Council of Europe instruments concerning fundamental social rights. He also asked what measures the Government was taking to speed up legal proceedings, particularly for cases related to labour law. He would like to be provided with a list of the judgements handed down by the Supreme Court or by the Constitutional Court in 2006 on the basis of the provisions of the Covenant, the Conventions of the International Labour Organization (ILO) and the European Social Charter. In the light of article 2, paragraph 1, of the Covenant, he asked whether Hungary provided assistance to developing countries in order to help them achieve full enjoyment of the rights recognized in the Covenant.
21. Ms. BARAHONA RIERA asked whether the non-governmental organizations (NGOs) had contributed in some way or other to the preparation of the State party's third periodic report. She would appreciate information regarding the specific powers and attributions of the Parliamentary Commissioner for Civil Rights (Ombudsman) and the Equal Treatment Authority. Noting that according to some reports glaring inequalities still existed between men and women in several areas, she asked what bodies were responsible for promoting gender equality.
22. Mr. ZHAN said that the high-level delegation representing Hungary showed the importance the country attached to the implementation of the Covenant and to the Committee's work, and he welcomed the detailed information supplied in the third periodic report. That having been said, he would have liked more details on unemployment, for which the report did not give any trends.
23. Ms. WILSON, recalling that human rights were indivisible and interdependent, asked why the State party did not appear to give equal status to economic, social and cultural rights and to civil and political rights. She would also like specific details on the State's policy regarding non-discrimination and its special measures on behalf of minorities.
24. Mr. KOLOSOV, noting that the State party had initiated a process of decentralization whereby municipalities had been made responsible for the rights enshrined in the Covenant, pointed out that it was the State party which was responsible in the first place for implementing the provisions of the Covenant. He wanted details concerning the anti-discrimination warning system, which provided legal advice to the victims of ethnic and other discrimination. He wanted to know in particular whether the Roma had already made use of the warning system and what legal assistance they had been offered. He regretted that no information had been made available on gender discrimination and would like the Hungarian delegation to take up the matter.

25. Ms. BONOAN-DANDAN asked whether the public would be given an opportunity to consult the periodic report under consideration or to read about the discussions between the Hungarian delegation and the Committee. In view of the fact that Hungary had no national human rights commission, she wondered what body was responsible for implementing the concluding observations of the treaty bodies. She also asked how the president of the Equal Treatment Authority was appointed and who the current incumbent was. Lastly, she wanted to know whether the Roma had taken part in elaborating the strategies aimed at resettling them in Hungarian society.

26. Mr. MARCHAN ROMERO, noting that the third periodic report of Hungary gave no information concerning migrant workers, wondered whether they constituted a major issue in the State party and whether Hungary intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. He also asked how the State party intended to guarantee the integration of the cultural values of minorities in Hungary while ensuring respect for and the promotion of their individual cultural identities.

27. Ms. BRAS GOMES welcomed the fact that the Act on Equal Treatment and the Promotion of Equal Opportunities adopted in 2003 had reversed the burden of proof but regretted that the law was not sufficiently applied by the courts. She also found it regrettable that in cases of discrimination, and in particular racial discrimination, those affected rarely lodged complaints because they believed that initiating proceedings was expensive and rarely yielded the expected results. She wondered whether according to more recent statistics a greater number of cases of discrimination had been brought before the courts or whether the victims continued to lodge their complaints with the Equal Treatment Authority. She asked how the State party intended to cope with the increasing number of cases dealt with by that Authority despite cuts in its operating budget. She also wanted to know whether the national plan of action on equal opportunities was still in the course of preparation or had already been implemented.

28. Noting that the municipalities shared responsibility for implementing public policies at the local level with the self-governing bodies of minorities and that their powers overlapped, she asked for further clarifications regarding the sharing of powers in practice and wanted to know whether the Hungarian Government was confident that available funding always went to the best projects.

29. She lastly invited the State party to refer to the Committee's general comment No. 18 on the right to work, adopted in 2005.

30. Mr. TALLÓDI (Hungary) said that the Covenant was part of the Hungarian legal system, in the same way as other international instruments. The situation was that the Covenant's provisions were not directly enforceable before the courts but that the Parliament had to ensure that the laws adopted in areas covered by the Covenant - the provisions of which were directly enforceable - duly gave effect to the Covenant's principles.

31. The Constitutional Court in several of its judgements had confirmed the fact that the State should ensure the protection of economic, social and cultural rights to the extent of its financial capacities. The Court had also expressed the view on several occasions, however, that it was

possible, in the event of absolute necessity, to limit the application of those rights, thereby establishing a distinction between the Covenant's rights and civil and political rights, which could never be restricted on any grounds.

32. Mr. RAFFAY (Hungary) said that the extract of the Constitutional Court's decision quoted in paragraph 31 of the third periodic report should be seen in its proper context. He confirmed that on Hungarian territory every person was entitled to enjoy the highest attainable standard of physical and mental health. He added that the Health Act went even further and listed the rights of patients and the State's obligations in that respect, subject to the proviso that certain special circumstances had to be taken into account for determining the treatment to which every person was entitled.

33. Mr. TALLÓDI (Hungary) agreed that legal proceedings could sometimes be unduly protracted, which explained why so many complaints were lodged before the European Court of Human Rights by persons who considered they had exhausted domestic remedies without success. As a palliative measure, the State party had adopted a law in 2006 which allowed one party to proceedings to lodge a complaint with a higher court if it considered that proceedings were unduly slow.

34. The Parliamentary Commissioner for Civil Rights (Ombudsman) with his Deputy were among the bodies responsible for ensuring the observance of constitutional rights. In the event of an anomaly, the Commissioner had the power to investigate any reports of misconduct on the part of a government authority, to put forward recommendations regarding the authority if necessary and, if no effort was made to redress the situation, to bring the case before the Constitutional Court. The Commissioner reported to Parliament and to its specialized committees and published his conclusions in an annual report.

35. The Equal Treatment Authority had different powers, in particular the power to investigate individual complaints and to provide victims with legal aid. The Authority's investigation could be conducted simultaneously with a judicial inquiry, as the two procedures were not mutually exclusive.

36. Ms. RAUH (Hungary) explained that although in the course of public administration reforms in 2007 the Equal Treatment Authority, like all other administrative bodies, had been subjected to staff cuts and budgetary restrictions, it had simply been a case of abolishing one post and reducing the operational expenditure relating to that post.

37. Mr. TALLÓDI (Hungary) said that the legislation governing the rights of minorities forbade any discrimination against the members of minorities. The Roma had access to legal aid under the anti-discrimination warning system through offices set up not only in Budapest but across the country. Most of the Roma's complaints concerned cases of job discrimination.

38. Ms. KARDOSNE (Hungary) recalled that, according to the latest population census, Roma accounted for 6 per cent of the Hungarian population; they were not, however, the country's only national minority.

39. Ms. RAUH (Hungary), regarding the issue of minorities, recalled that since 1993, under the Minorities Act, national minorities had been entitled to pursue their studies and obtain official documents in their mother tongue; all matters related to everyday living were dealt with by self-management bodies, which operated alongside local authorities. In Hungary, while the State had obligations and responsibilities (set out in various decrees issued by the Government since 1995), in particular the duty to help preserve the identities of minorities, integration was seen rather as a question of personal choice.

40. In order to assist the integration of the Roma, an inter-ministerial committee had been set up in 1998, on which 25 NGOs were currently represented and took part in the process of reaching and implementing decisions. Each year the inter-ministerial committee drew up a report monitoring the progress achieved where the Roma were concerned in the areas of education, employment, health and housing and in the efforts to eradicate discrimination against them. Such discrimination arose from deep-seated popular stereotypes, which the Government had been combating for 10 years. Since 1997, many young Roma had received scholarships and Hungary was a model country in that respect.

41. The Hungarian Government had recently adopted a Roma integration strategy, which was actively supported by local authorities, churches, NGOs and business. The strategy dealt with education, employment, housing and health matters and set a number of objectives, adding the necessary measures and indicators for their implementation.

42. The Hungarian authorities did maintain contacts with Roma NGOs. The websites of the Hungarian Government and the Ministry of Social Affairs led to information of interest to or concerning the Roma. It could happen that the Roma had difficulties accessing local services, probably because they were not close to the services offered, but a legal remedy was available, whereby the citizens affected could appeal either to the Ombudsman, in the centre dedicated to Roma rights, or to the network of public lawyers or to the Equal Treatment Authority.

43. The Equal Treatment Authority, whose director was appointed by the Prime Minister, had the power to deal with problems of gender equality. That issue had appeared on the scene in Hungary only in 2002-2003, when efforts had been made to bring Hungarian legislation into line with the acquired rules of the European Union. A council on social equality between men and women had been set up and operated according to a workplan targeting a number of objectives (such as integrating women in the public administration, combining family life and professional activity, preventing family violence, encouraging the participation of women in economic affairs, ensuring equal pay for equal work and protecting the victims of human trafficking).

44. Mr. TALLÓDI (Hungary) said that for the time being Hungary was not considering ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although it was not opposed to the possibility, nor to that of acceding to a future optional protocol to the International Covenant on Economic, Social and Cultural Rights.



45. Mr. HORVATH (Hungary) recalled that his country was party to the Convention on the Rights of Persons with Disabilities, of which it had been one of the first signatories in March 2007. He added that, since legal proceedings could be initiated only by persons acquainted with the Covenant, instruction concerning the treaty was included in school programmes and in the training of health-care personnel. The text was available in forms which were accessible to persons suffering from different disabilities. The ILO Convention (No. 159) concerning Vocational Rehabilitation and Employment (Disabled Persons) and the Convention on the Rights of Persons with Disabilities must also be made available in forms which were understandable to the disabled. Hungary had a National Council for Disabled Persons, made up of 25 members, including 13 NGOs devoted to the interests of the disabled. The Constitutional Court had judged two references to the Covenant (in the 1995 Higher Education Act and the 1999 Social Services Act) unconstitutional. In 2006, the Equal Treatment Authority had considered 10 cases which had led to judgements in favour of handicapped plaintiffs.

46. Mr. KOLOSOV did not agree that the provisions of the Covenant should be applicable in the courts implicitly, in other words within the context of national legislation in general, and not directly, with reference to the Covenant's own articles. Regarding regional disparities, he would like full details concerning the mechanisms used for the monitoring and application of national legislation by the authorities representing minorities and by the municipalities.

47. Ms. BARAHONA RIERA asked for further details regarding the Ombudsman's contribution to the preparation of the State party's third periodic report and the Ombudsman's powers and attributions.

The meeting rose at 6 p.m.