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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 8 November 2005, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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

CONSIDERATION OF REPORTS (continued)

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

Initial report of Slovenia (continued) (E/1990/5/Add.62; E/C.12/Q/SVN/1; HR/CESCR/NONE/2005/4; HRI/CORE/1/Add.35/Rev.1)

1. At the invitation of the Chairperson, Ms. Cotman, Mr. Čurin, Mr. Dominkuš, Ms. Lovšin, Ms. Mušič, Ms. Neubauer, Ms. Novak, Mr. Pavlin, Mr. Pertinač, Mr. Štrovs and Mr. Trnovšek (Slovenia) took places at the Committee table.

2. The CHAIRPERSON invited Committee members to put questions to the delegation.

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3. Ms. GHOSE noted that police received only two weeks of training on domestic violence. She wondered who drew up such programmes and whether adequate attention was paid to the sensitivity of the issue. She would also like to know what the penalties were for sexual harassment in the workplace.

4. With regard to trafficking in women, she said that, according to the Committee's information, Slovenia was not only a country of origin, but also a country of transit and destination. She would welcome further information on the current situation in that regard, and in particular what measures other than legislative measures were being taken to combat the problem.

5. Ms. BARAHONA RIERA wondered whether there was in fact a law specifically prohibiting trafficking in women. She would also like to know whether domestic violence was defined as a specific offence in law - as opposed to being treated as merely one form of violence among others - and similarly, whether sexual harassment was an offence in law.

6. Slovenia had been through a period of transition that had hit vulnerable groups particularly hard. She wondered whether there were any policies or strategies in place for the protection and social security of the elderly.

7. Mr. SADI said the State party's report (E/1990/5/Add.62, para. 641) seemed to imply that the age of sexual consent was 15. In addition, it seemed possible under the law to receive a lighter sentence for sexual assault on a child aged under 10 than for sexual assault on a child aged under 15. He would appreciate some clarification of that point.

8. There were several references in the report to "sexual integrity" and he wondered what the expression meant.

9. Mr. MARTYNOV asked for more information concerning the "special regulations" on occupational health and safety, referred to in paragraph 261 of the report, and wondered what kind of occupations they covered.

10. The statistics on accidents at work dated from 1998 and 1999. He wondered whether it would be possible to provide more recent figures, if possible for 2000 to 2004.
11. Slovenia seemed to have an impressive social security system. He wondered, however, why the State party had not ratified International Labour Organization (ILO) Conventions No. 117, concerning Basic Aims and Standards of Social Policy, and No. 118, concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.
12. Mr. PERTINAČ (Slovenia), replying to Mr. Texier's questions at the previous meeting on labour and unemployment, said youth unemployment for the 15-24 age group stood at 16.2 per cent, partly as a result of the lengthy periods spent studying and partly as a result of inadequate links between the education system and labour market. Long-term unemployment had accounted for around 45 per cent of total unemployed in 2004 but was in fact declining. Registered unemployment of persons with disabilities had stood at 9.2 per cent in 2004. The area where Slovenia lagged behind other European countries was that of work for older people, only 32 per cent of whom were in employment.
13. Legislation prohibiting illegal employment had been passed and an inter-ministerial working group set up to detect and prevent illegal work. Government statistics showed that in 2000 the informal sector had accounted for 6.9 per cent of gross domestic product (GDP), a far lower proportion than in other, comparable European countries.
14. On the question of social transfers, he said the available research showed that Slovenia was more efficient than average compared with other European Union (EU) member States, despite the fact that its funding allocation in that regard was some 1 per cent less than in other countries. In order to improve efficiency and targeting, legislation was currently being considered that would bring social security rights within the scope of social security legislation as opposed to employment legislation. A system was also being introduced to monitor payment and prevent abuse of social transfers.
15. On the question of the impact of Slovenia's accession to the EU on unemployment levels, he said Slovenia had prepared itself by bringing its legislation and policies into line with EU standards prior to the negotiation process and accession itself had therefore not caused major problems. On the contrary, the opening up of markets as a direct consequence of accession was expected to have a positive impact on employment. Regional disparities in unemployment were being reduced: over 60 per cent of all funds for the Active Employment Policy were allocated to the regions where unemployment levels were above average.
16. With regard to the employment of persons with disabilities, he said the report might have created a misconception that Slovenia required companies to employ persons with disabilities, which was not the case. However, recently adopted legislation set quotas on the employment of persons with disabilities: companies and State administrations which did not meet those quotas were required to contribute to a special fund for the training and employment of persons with disabilities.

17. The minimum wage was index-linked to the growth of GDP. The current level was 122,500 tolar gross (€500) and 80,000 tolar net (€240), i.e., around twice the current social security package and therefore sufficient to live on and also a stimulus to those employed to remain in employment.

18. Mr. ŠTROVS (Slovenia), replying to Mr. Texier's questions relating to the right to work, said the rights of workers and the obligations of employers were clearly defined in Slovene law, which included regulations on wages and the conditions of dismissal. Current legislation was very protective of workers. Employers were becoming reluctant to take on new people if they could do so only on the basis of indefinite contracts and they were exerting pressure in the collective bargaining process to obtain a certain amount of flexibility in the form of more limited work contracts. Amendments to employment legislation were being considered which would accommodate both sides.

19. The system of collective agreements, involving Government, unions and employers, covered almost every aspect of employment and in practice provided both protection and control, since all stakeholders had an interest in the proper implementation of the provisions of the agreements.

20. Pay scales and levels were governed by law for the public sector but in the private sector were the result of a social dialogue between employers and employees. The same principle of dialogue was applied in cases of labour conflict, in which the role of the State was more that of facilitator than of active partner, although it would intervene to protect workers' rights under the law, through the labour courts. The Government would like to see more out-of-court settlements, which was why it placed so much emphasis on trade union rights.

21. Union freedom was an important concept in Slovenia and subject to few constraints, including in the public sector. That having been said, where strikes occurred in key sectors such as health, transport or electricity, every effort was made to ensure that they posed no threat to public safety. The right to strike in Slovenia was consistent with the provisions of the Covenant but subject to fewer constraints than the Covenant in fact permitted.

22. With regard to the pension rights of citizens of former Yugoslav republics, he said the regulations were very clear. The right to a Slovene pension was based on the individual's insurance contributions in Slovenia, regardless of country of origin, nationality or current residence. The position of citizens of other former Yugoslav republics who used to work in Slovenia but then had moved to other successor States of Yugoslavia was in general governed by a bilateral agreement between Slovenia and the country concerned.

23. On the issue of health and safety at work, he said there was general legislation which applied to all workers regardless of sector, but that particularly vulnerable sectors such as the nuclear and mining industries were regulated by additional legislation.

24. The State pension was a minimum allowance granted in accordance with the principle that anyone over 65 had the right to some kind of pension even if they had never worked.

25. Ms. NEUBAUER (Slovenia) said that although the Employment Act stipulated equal pay for equal work, a series of factors, such as the horizontal and vertical segregation of the labour market, had resulted in a discrepancy in men and women's salaries. However, it was expected that the gap, which was currently less than 10 per cent, would continue to narrow due to a series of new measures, such as the Equal Opportunities for Women and Men Act, measures to encourage men and women to seek employment in areas where one gender was underrepresented, and the professional advancement of women. Women were generally overrepresented in the lower paid sectors. The Government would analyse the situation further, both quantitatively and qualitatively, in an endeavour to better understand the dynamics of the gender gap in salaries and find solutions.

26. On the question of measures to encourage fathers to take paternity leave and share parental obligations, stereotypical gender roles were disappearing and the perception of the role of fathers was changing. Increasing numbers of men were taking paternity leave: two thirds of those eligible had taken parental leave of 15 days following the birth of the child. However, there was still room for improvement, which was why the Government had organized campaigns to promote paternity leave and shared parental care and increase the social responsibility of employers. As one of the major employers, the State administration must set an example. Emphasis was also being placed on creating family-friendly working environments.

27. Ms. LOVŠIN (Slovenia), responding to questions on the impact of accession to the European Union on unemployment, said that Slovenia had been well prepared for the free movement of workers following EU enlargement. The authorities had kept statistics on the number of foreign citizens employed in the Slovenian labour market prior to accession in order to be able to respond quickly to any major changes. According to the data, the influx had not been huge: prior to accession there had been 557 foreign workers, while after enlargement there were 2,049. The number of citizens from the pre-2004 enlargement EU countries amounted to almost 800 in 2005, which did not pose a threat to the Slovenian labour market.

28. Mr. DOMINKUŠ (Slovenia) said that, at more than 15 per cent, the proportion of the population over 65 years old was particularly high, and therefore great emphasis was placed on the care of the elderly. In 1997, a strategy had been adopted by the Ministry of Labour, Family and Social Affairs to deal with key issues in that area, and the Government was currently preparing an overall strategy, with the participation of various ministries, non-governmental organizations (NGOs) and professional institutions. A law on long-term care, which was considered a new social risk, had been drafted, and it had been decided to introduce standardized compulsory insurance. Although the institutional care system was well developed, there had been a shift in focus towards care in the home, in the form of home help, day-care centres and alarm systems.

29. Special attention was paid to providing adequate levels of social security to the elderly, and financial assistance was provided to those over 60 who had no other funds. Under the Marriage and Family Relations Act, children were obliged to take care of their parents if they had no other source of income. There were a number of forms of financial assistance available to the disabled and the elderly, and they would also be covered by the law on long-term care. The aim was to make the system as standardized and transparent as possible. A law on mental health was also being drafted to govern the care of those with chronic mental illnesses.

30. Mr. PAVLIN (Slovenia), on the question of child sexual abuse, said that the age of sexual consent had been raised in 1999 from 14 to 15 years. In exceptional circumstances, it was also possible to contract marriage at the age of 15, with the agreement of the competent authority. The penalties for child sexual abuse provided for in the Penal Code referred only to minimum penalties, hence the apparent illogicality: the maximum sentence was 15 years. The concept of sexual integrity had been introduced into the Penal Code to refer to the fact that all persons, male and female, had the right to full bodily integrity and the protection of their physical or personal integrity. The penalties listed in the Code applied to rape and sexual assault. Regarding sexual harassment, although it was not considered a criminal offence, it could be sanctioned with up to six months' imprisonment under article 166 of the Penal Code if the personal and physical integrity of the person was harmed.

31. Mr. ŠTROVS (Slovenia) said that sanctions for sexual harassment in the workplace were provided for under the Employment Act, which protected workers from sexual harassment by co-workers or superiors. The employer was held responsible for sexual harassment by employees.

32. There had been a decrease in the number of industrial accidents since 2002, which was partly attributable to the fact that dangerous industries such as mining were in decline. It should be noted that statistics for workplace accidents also included road traffic accidents which occurred on the way to or from the workplace, which contributed to the high figures.

33. Regarding pay and labour relations, the principle of non-discrimination was applied in determining salaries. The discrepancies in average wages for men and women were due to different job structures and the fact that, under pension legislation, women retired earlier than men. Therefore, given that salaries increased in accordance with the number of years of service, it followed that men were better paid than women.

34. Mr. ČURIN (Slovenia), referring to activities to counter trafficking in persons, said that in 2001 an interdepartmental working group, composed of representatives of ministries, government offices, the police and international and national NGOs, had been established to regulate policy in that area. The working group, which had received a mandate from the Government and was obliged to report periodically on its activities, had developed an action plan, adopted by the Government, which included projects in the areas of legislation, prevention, assistance and protection of victims, education and training, and international cooperation. The total spent on the projects was more than €400,000.

35. One NGO, the Association Ključ, which had been allocated funding had subsequently appeared in an official list of associations with which the State should not cooperate, sparking a debate on whether the association was eligible for State funding or not. A legal opinion had been requested from the Constitutional Court, which in October 2005 had found that there were no legal constraints on the allocation of funds in the circumstances. In the interest of transparency in the allocation of public funds, a public tender was planned for 2006 in connection with the provision of assistance to victims of human trafficking, the area in which the Association Ključ operated.

36. Mr. PAVLIN (Slovenia), referring to legislation on trafficking in persons, said that the Penal Code provided for severe penalties: from 1 to 10 years' imprisonment for a basic violation, which included prostitution and exploitation, or 10 to 15 years for a more serious offence, such as trafficking in children. The perpetrators of such crimes were dealt with at the highest level. In 2004 criminal proceedings had been initiated in three cases, although as those proceedings had not yet been concluded, no reference could be made to precedents. An amendment to the Penal Code on trafficking was under preparation by the Government's interdepartmental working group, with the participation of the Office of the United Nations High Commissioner for Refugees and various NGOs.

37. Ms. MUŠIČ (Slovenia) said that in Slovene penal legislation trafficking in children was subdivided into several different offences, the gravity of which depended on the intentions of the perpetrator, and the nature and consequences of the offence. Since trafficking in children was a particularly difficult crime to uncover, the fact that few cases had been reported in Slovenia did not necessarily mean that they did not occur. The Government was aware that it was particularly important to ensure that all State institutions working to combat trafficking cooperated with each other and with NGOs. Slovenia was a transit country for trafficking in persons, particularly Roma girls trafficked for illegal marriage in a third country. Such cases were very difficult to pursue.

38. Ms. LOVŠIN (Slovenia) said that adoption was regulated by the Marriage and Family Relations Act. Pursuant to that Act Slovene children could only be adopted by foreigners if suitable parents could not be found in Slovenia. Thus far there had not been any cases of inter-country adoption, since there were more candidates to become adoptive families in Slovenia than there were children up for adoption. All adoption procedures were confidential. Slovenia had concluded a number of bilateral agreements with neighbouring countries, including Macedonia, in order to regulate adoption procedures. Women adopting a child under the age of 1 year were eligible for maternity leave, and parents adopting a child over the age of 1 year were granted adoptive parental leave.

39. Mr. DOMINKUŠ (Slovenia) said that although Slovenia did not have specific legislation on domestic violence, all such behaviour was punishable by imprisonment for a period of two to five years. The family was specifically mentioned in the Penal Code as a potential context for violence. The Government was considering the addition to the Code of a specific provision on domestic violence.

40. Ms. MUŠIČ (Slovenia) said that in September 2004 an amendment had been introduced to the Police Act, pursuant to which the police could prohibit the perpetrators of domestic violence from approaching certain people or places. Thus far, the police had made use of the measure in 115 cases.

41. Turning to the question of police training and education, she said that regular police training took place at university faculties for social and police sciences. Additional training, including courses to familiarize law enforcement officials with amendments to legislation, was also available to all police officers. Training was particularly important in enabling police officers to better understand the needs of victims and thus provide them with greater protection. The detection of domestic violence had increased as a result of improved police training.

42. Ms. NEUBAUER (Slovenia) said that an inter-ministerial body on domestic violence had been established. It had submitted a proposal for the adoption of legislation on the prevention of domestic violence, and was currently preparing a national programme on the prevention of domestic violence. A new housing law had been adopted, providing for the allocation of low-cost housing to victims of domestic violence.

43. Ms. LOVŠIN (Slovenia) said that Slovenia did not intend to ratify ILO Conventions No. 117 concerning Basic Aims and Standards of Social Policy, No. 118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security, and No. 178 concerning the Inspection of Seafarers' Working and Living Conditions, or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The rights protected in those conventions were protected by bilateral agreements concluded between Slovenia and other States, and other international treaties to which Slovenia was party.

44. Ms. BARAHONA RIERA asked how efforts to combat trafficking in women were being increased. Trafficking in women should be specifically included in criminal legislation.

45. Ms. BRAS GOMES requested clarification on pension rights for persons who had worked in Slovenia, but had since had lost their Slovene citizenship and were resident in other former Yugoslav States. She particularly wished to know whether such peoples' pension contributions could be transferred to their new country of residence. The Committee had been informed that the State pension was the only source of income for many people in Slovenia, and she wondered whether the Government planned to increase the amount of the pension.

46. Mr. TEXIER asked why Slovenia had not yet ratified International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and asked whether the Government intended to do so.

47. Ms. GHOSE asked whether there were aspects of police training on domestic violence that specifically addressed women's issues, in order to ensure that any societal prejudices that existed against women did not influence police work. She wished to know whether the age of sexual consent was firmly set at 15 years, and if so, whether the Government planned to change it. Turning to the issue of pensions, she said that she had been informed that since women in Slovenia earned less than men, and retired earlier than men, they received lower pensions. She asked whether that was indeed the case, and, if so, whether measures would be taken to rectify that situation and ensure that women received equal pensions.

48. Mr. MARTYNOV asked why high-risk places of work, such as mines and nuclear power plants were apparently not ruled by general legislation on safety in the workplace, and requested further information on the specific regulations on conditions in such places of work. He requested a written submission of statistics on unemployment and on accidents at work.

49. Mr. KOLOSOV asked whether the Association Ključ was a full member of the inter-ministerial working group on trafficking in persons. He wished to know whether social subsidies and pensions were sufficient to ensure that recipients had a decent standard of living.

50. MR. ŠTROVS (Slovenia) said that following the break up of the Federal Republic of Yugoslavia, all former Yugoslav independent States, including Slovenia, had established pension

insurance institutions. Slovenia had transferred the pensions of all of its former citizens registered with pension insurance institutions who had become citizens of other former Yugoslav States to their new countries of residence. The transfer of pension contributions also applied to those who had been employed in the armed forces, who in some circumstances could be disadvantaged. The Government was seeking to address the question of former military personnel through bilateral agreements. A minimum social security pension was paid to all persons aged 65 years and above who had Slovene citizenship or were permanently resident in Slovenia. Any person receiving the pension who had an income of less than €200 per month was eligible for further social benefits funded by the State. Slovene pension insurance legislation ensured equal pensions for women and men, irrespective of the fact that women retired earlier than men. The Government was aware that further steps must be taken to bring pension legislation into line with European Union requirements.

51. Turning to the issue of safety at work, he said that high-risk sectors were governed by specific legislation on hazardous work and accidents in the workplace, which was applied in conjunction with general safety legislation.

52. Mr. TRNOVŠEK (Slovenia) explained that in Yugoslavia there had been a system of citizenship, in which everybody had held both federal citizenship, and citizenship of one of the constituent republics. Thus, when Yugoslavia had broken up, the republican citizenship of each individual had simply become his or her national citizenship. For that reason, the break up of Yugoslavia had not resulted in statelessness. Those who had had permanent residency in the Yugoslav Republic of Slovenia had retained that status when Slovenia had become an independent State. Moreover, such persons could apply for citizenship under conditions that were more favourable than the standard requirements for naturalization. In order to avoid dual citizenships, Slovenian citizenship was under normal circumstances only granted if it could be proven that the individual would thereby forfeit his or her existing citizenship. As in many other countries, an exception was made when a naturalization was held to be in the interest of the Government of Slovenia.

53. Ms. MUŠIČ (Slovenia) said that she agreed with the Committee that police officers must not only be familiar with and understand the legislation on domestic violence, but also be capable of identifying instances of domestic violence. Slovenian police were taught how to prevent, detect and prove domestic violence, as well as how to meet the victims' needs. As a result of their training, police officers were sensitized to the issues, and unbiased. Information and assistance were available to victims of domestic violence at the police station with respect to the full range of services provided by the State and by non-governmental organizations, including legal and social assistance and psychological support.

54. Mr. ČURIN (Slovenia) said that his Government was aware of the complexity of the problem of trafficking and had therefore appointed an inter-ministerial group on trafficking in human beings, which had drawn up the Action Plan on Trafficking in Human Beings 2004-2006. The Action Plan focused on legislative change, prevention measures, and raising awareness of the problem among professionals and the general public. Emphasis was also given to providing assistance to victims. Trafficking in persons had been defined and criminalized in a new article in the Penal Code; exploitation through prostitution and enslavement were also covered by the Penal Code.

55. In the interest of efficiency in the detection of trafficking offences, a criminal investigator for trafficking had been appointed in each of the 11 divisions of the police force across Slovenia, with their work being coordinated by the inspector of the general police office. In 2004, the police had handled 14 trafficking cases and 12 persons had been indicted. He noted that the question mark over the legality of the funding provided to the Association Ključ had been resolved by a decision of the Constitutional Court in October 2005.

56. Mr. PAVLIN (Slovenia) said that in 1999, following four years of debate, the age of consent had been raised from 14 to 15 years of age. That decision had taken into account respect for the legal tradition in Slovenia and developments in comparable European States. He noted however that sexual violence and rape were criminal offences, while persons who abused their position in order to have sexual relations with a young person risked imprisonment for between one and eight years. In those criminal offences, a distinction was made between those aged under 15 and those aged 15 or above. Slovenia did not see any reason to raise the age of consent.

57. Ms. NOVAK (Slovenia) said that Slovenian social security was based on a system of social allocations. Individuals were responsible for assuring their own social security, but were assisted by the State in the event that they were unable to do so for reasons beyond their control. State assistance took two forms: the provision of financial assistance sufficient to ensure that minimum basic needs were satisfied; and assistance to remove the barriers to employment faced by those who were unemployed. Individuals who were permanently unable to work due to age, disability or incapacity received additional allowances. Carer assistance was also available in the event of disability or illness.

58. Mr. PERTINAČ (Slovenia) said that statistical data on employment and on accidents at work would be submitted in writing.

59. Ms. LOVŠIN (Slovenia) said that Slovenia had not ratified the ILO conventions referred to by Committee members and had no plans to do so; Slovenia regulated those areas through its domestic legislation and through other bilateral and multilateral agreements.

60. Ms. COTMAN (Slovenia) said that she hoped that her delegation's responses to the Committee's questions had been satisfactory.

61. The CHAIRPERSON said that the Committee had not been entirely satisfied with the delegation's answers in explanation of the low age of sexual consent in Slovenia. She emphasized that the sexual freedom of young people was not a moral issue for the Committee; the Committee's concern was that a low age of consent impacted on the ability of the girl child to enjoy fully her educational, social and cultural rights. In that context, she asked the delegation to provide statistical information on the number of abortions among women and girls aged 18 years and under, and on the number of 15 to 18 year olds who were not in school due to motherhood or childbirth.

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62. Mr. RIEDEL noted with satisfaction the measures that Slovenia was taking to combat cardiovascular disease, and asked the delegation to elaborate on the success of its plans and educational programmes on dietary advice. He was particularly interested in knowing the results produced by the national programme for the prevention of suicide. He also wished to know what kind of poisoning was referred to in the delegation's written replies to the list of issues.

63. Mr. KERDOUN welcomed the extensive and detailed information provided on education. He asked the delegation to explain the reasons for Slovenia's high dropout rate and on the implementation and results of the various education reforms. He wished to know whether State-funded universities enjoyed the same degree of independence as private higher education establishments and why the State only funded students at certain stages of higher education courses. He also wished to know whether the measures described in the report and the written replies to introduce the teaching of civic education and citizenship had been taken because responsible citizenship was lacking in Slovenia. He asked for information on human rights education in Slovenia. He also asked to what extent the reforms to the education system had been successful in achieving the objectives that Slovenia had set itself. Lastly, given the references in the report to adult education, he requested statistical information on illiteracy rates, disaggregated by gender.

64. Ms. BARAHONA RIERA wished to know about the implementation and outcomes of the programme for healthy sexuality referred to in paragraph 759 of the report. She also wished to know what environmental protection measures were in place with a view to ensuring air quality and combating air pollution in cities.

The meeting rose at 6 p.m.