

SPAIN

CESCR E/1992/23

260. The Committee considered the second periodic report of Spain concerning the rights covered by articles 13 to 15 of the Covenant (E/1990/7/Add.3) at its 13th, 14th, 16th and 22nd meetings, held on 3, 4 and 10 December 1991 (E/C.12/1991/SR.13, 14, 16 and 22).

261. The representative of the State party introduced the report and explained that the educational system in Spain had just undergone profound change and that the new system accorded particular attention to socio-economically disadvantaged and handicapped children. The Fundamental Act on the Right to Education also allowed for more democratic participation from parents, teachers and students in the administration of schools.

262. A new organic law provided for raising the compulsory school leaving age to 16 and for a complete restructuring of the educational system so that the general education system would cover pre-schooling, primary and secondary schooling. The new law, which applied both to public and private education, would also make it possible to meet the requirements of a transformed Spanish society and to adapt the system to the needs of the labour market.

263. With respect to cultural matters, the representative noted the pluralistic nature of culture in Spain as a consequence of the various national languages existing in the country and referred to the important role played by the autonomous communities in the promotion of their culture. According to articles 148 and 149 of the Constitution, museums, libraries, conservatoires of music, monuments as well as the development of culture, research and education in the community language came within the purview of the autonomous communities, while the State had exclusive competence in legislative matters relating to intellectual and industrial property, the development and coordination of science and technology, regulation of the mass media and protection of the country's culture. Conflicts of interest were dealt with by the Constitutional Court.

General matters

264. Members of the Committee wished to know what difficulties the Government was encountering in fulfilling its obligations under articles 13 to 15 of the Covenant; what impact educational reforms were having on Spain's fulfilment of its obligations under those articles; what progress had been achieved since the submission of the initial report (E/1982/3/Add.22) in the practical realization of those articles as a result of legislation, court decisions, collective agreements or otherwise; and what action had been taken as a result of cooperation and dialogue with the Sessional Working Group of Governmental Experts subsequent to the consideration of the initial report.

265. Members of the Committee also wished to know whether nationals of Equatorial Guinea living in Spain experienced discrimination in the fields of education and work; whether the 1492 decree expelling Jews from Spain still applied; what percentage of the budget was allocated to education and culture in the Basque region; whether the Government had encountered any difficulties in complying with articles 13 to 15 of the Covenant in that region; and whether the Covenant was

automatically applicable or required a special law for its application.

266. In reply, the representative informed the Committee that difficulties encountered in ensuring compulsory education had arisen within the context of educating certain ethnic minorities, notably the Gypsy minority, but that this problem was being overcome due to the integration measures being pursued. Parental choice of schooling had also presented problems, especially where the school received public subsidies but this question had since been settled by a Supreme Court ruling which declared that the State was not required to finance private schools entirely.

267. The representative also gave further information on the measures being taken to integrate into the classroom situation children from disadvantaged backgrounds with learning difficulties as well as physically and mentally handicapped children, noting that 753 schools, 2,000 teachers and 1,500 students were participating in the programme. A system of compensatory education, offering vocational or literacy training, also existed to meet the needs of young people, including those from marginalized or immigrant groups, who for a variety of social, economic or geographical reasons were illiterate or dropped out of school. There was also a system of adult education which included efforts to eliminate illiteracy and measures for distance learning.

268. Regarding school attendance, the representative noted that 100 per cent attendance had been reached for children aged 6 to 13, and that it was nearly 100 per cent for children aged 4 and 5 and 14 and 15. Some 63 per cent of children aged 16 to 17 also attended school. Within the last decade, budget allocations to education had increased from 6.8 billion pesetas to 64.9 billion pesetas annually, representing about 4 per cent of GDP.

269. In reply to other questions, the representative of the State party indicated that article 50 of the Constitution provided for some special support to the elderly similar to that provided for young people. If Spanish legislation was not in conformity with Spain's international treaty commitments, it would be modified since the Constitution stipulated the supremacy of international treaties over Spain's domestic law.

Articles 13 and 14: Right to education

270. Members of the Committee wished to know how the provisions of article 2, particularly subparagraphs (a) and (e), of the Fundamental Act on the Right to Education of July 1985 had been put into effect in Spanish schools; whether any restrictions existed as to access to education by foreigners resident in Spain; in what proportion public and private funds contributed to the financing of education; whether the State placed any restrictions on the content of the instruction provided in private schools and, if so, in what form; to what extent scholarships and grants assisted pupils and students from low-income families; what system existed to provide vocational retraining for adults; what difficulties were being encountered in the implementation of the right to fundamental education, particularly in respect of disadvantaged groups and groups living in rural and remote areas; what difficulties were being encountered both in the public and private sector in the recruitment of qualified staff and in improving the remuneration and working conditions of qualified teachers, particularly in rural areas; and what measures had been taken or were being contemplated by the Government to overcome these difficulties.

271. Members of the Committee also wished to know whether scholarship students had any obligation towards the Government once they had completed their education; what incentives were used to attract competent teachers to teach in remote areas; whether students participating in literacy campaigns were taught reading and writing in their mother tongue if they spoke a language other than Spanish; whether allegations that the Basque language was subjected to discrimination by the Spanish Government were accurate; whether the educational system was designed to provide all citizens with equal opportunities or merely to achieve development objectives linked to the modernization of Spain's economy; whether languages other than Castillian Spanish were taught in other regions than those in which they were spoken; and whether any targets had been set by the authorities to overcome overcrowding in universities. In addition, members wished to know how teachers' salaries compared with salaries in industry; whether the salaries of university professors were sufficient to provide them with a decent income; what the difference was between private schools that were 100 per cent subsidized by the State and public schools; whether the working conditions and salaries of teachers in private schools differed in any way from those in public schools; what had been the reaction of the Catholic Church to the new organic law on education; whether there were sufficient places offering practical training to students in vocational training courses; and whether the experience of retired university lecturers was made use of to overcome the problem of teacher shortages in Spain.

272. Concerning vocational education, members wished to know what difficulties had been encountered in carrying out required reforms; what percentage of students in vocational training were women; what the level of remuneration was for persons who received vocational education; whether the shop-floor aspect of vocational training constituted preparation for a specific job; how vocational training in Spain was financed and who had responsibility for policy formulation in the vocational training sphere.

273. It was also asked whether there was a problem of drug abuse among pupils and students in Spain and, if so, on what scale and what measures had been taken or were planned in that regard; what the Ministry of Education and Science had done to incorporate the general problems of AIDS and drug addiction into the health education curriculum; whether there was any evidence of male or female prostitution in educational establishments; what steps the Government was taking to address problems of out of school youth or street children; and what assistance was available to enable unmarried mothers to continue their studies.

274. In reply, the representative stated that measures aimed at the development of a child's personality involved adapting the instruction to the pace of the various pupils, providing a flexible school organization and increasing motivation by involving the children actively in the organization of the school or institute. Concerning efforts to address problems in the educational field stemming from the linguistic and cultural plurality of Spain's population, it was noted that the report for 1989/90 of the State Council on School's which contained some criticism, would receive the close attention of the authorities.

275. Replying to other questions, the representative said that there were no restrictions on access to education by foreigners; that private schools were required to abide by the academic regulations in force and that the State monitored compliance with such regulations through the provincial services of the Schools Inspection Unit; that scholarships and other assistance were sufficient to

enable students from low-income families to attend all levels of educational institutions; and that the aim of the system for vocational training for adults was to fit workers for a particular profession or occupation through highly practical training courses which did not follow the normal school terms and which awarded certificates of competence in the occupation concerned.

276. Efforts to overcome the difficulties encountered in providing education for disadvantaged groups living in rural and remote areas involved special programmes, including the establishment of school units or partial basic general education (EGB) centres for young children. Older children were provided with free transport to attend higher classes in the EGB cycle at larger regional centres. Traveling teachers working in the supplementary education programme went to rural schools for several days per week to teach physical education and Spanish and assisted local teachers in the rural college groups.

277. Answering the question on the difficulties in the recruitment of qualified teaching staff, the representative of the State party informed the Committee, *inter alia*, that working conditions had improved; that teachers were given the opportunity to receive further training in teacher training colleges in each province, especially in view of the new curricula and subjects being introduced; and that a number of agreements had been signed between the Ministry of Education and Science and the trade unions.

278. There were very few private universities in Spain, all of which were Catholic, but six new non-Catholic universities were to be set up shortly. The sole cost to a public university student was the modest registration fee; grants were available to cover this fee and the costs of accommodation, transportation and books. No economic incentives were offered to teachers in rural areas but they were awarded points for each year's service which would assist them in their subsequent administrative or teaching careers. Two Sub-Directorates-General of the Ministry of Education and Science were responsible, in the context of the campaign to eradicate illiteracy, for planning the network of centres for the adult population, organizing courses and training teachers. The attitude of young people toward further studies was changing markedly, truancy rates had fallen and there was considerable demand for the range of educational courses offered for example through non-compulsory secondary education, university education and vocational training.

279. The ultimate objective of the heavy investment in education in Spain was to provide all citizens with educational opportunities, to promote economic development and to produce responsible, public-spirited, and contented citizens. Catalan, Basque and Galician were taught not only in their respective territories but also in official language schools. In the autonomous communities children were required to learn both Spanish and the local language. Overcrowding was only a problem at the Universidad Complutense de Madrid and the Carlos III University in Madrid had been set up to ease that problem. There was no discrimination of any kind against the Basques; on the contrary, positive action had been taken in their favor in the 1970s when it appeared that their native tongue was imperilled. Persons from Equatorial Guinea were also not discriminated against and their children attended ordinary Spanish schools and were given special support teaching, if required. Emeritus Professors continued to teach, particularly in medicine and music.

280. In primary education, one of the most rewarding programmes had been that which integrated children with learning difficulties in normal schools. The sex education campaign conducted by the

National Institute for Youth had been a useful exercise, which should have offended no one. A group of teachers had been appointed by the Ministry of Education and Science to work on the problem of drug addiction. Formerly there had been a considerable problem of drop-outs but the rate of absenteeism had declined. Special teachers had been appointed to follow cases and make contact with families from ethnic minorities whose children sometimes did not attend school. The Ministry of Social Welfare had encouraged the establishment of homes for single mothers and their children and provided them with economic assistance.

281. On the subject of vocational training, the Committee was informed, *inter alia*, that agreements between training centres and individual enterprises relating to a particular course were approved by both sides and that a tutor in the training centre and an official of the enterprise supervised the students and a joint evaluation followed. The scheme operated in both public and private sector enterprises and an attempt was made to rotate students between the two. Of the students following such courses 60 per cent were boys. A General Vocational Training Council chaired alternately by representatives of the Ministry of Labour and the Ministry of Education and Science, on which trade unions, industry and social workers were represented and information about vocational training evaluated, had been established. Provincial councils had also been established to undertake planning on a regional basis in order to match training courses to the requirements of local enterprises.

282. Concerning State support of private education, which was based on mutual contract obligations, the State allocated funds to cover staff salaries, operating costs and various other expenditures. In return, the school agreed to provide education free of charge and to accept pupils without discrimination. If requests for places exceeded the number of such places, the school was obliged to select pupils in accordance with criteria established by the Ministry. Staff were to be appointed solely on merit. The employment conditions of staff in private and public establishments were not exactly the same since the former were employed by the establishment's owner and their contracts were renewable, whereas teachers in public institutions were appointed through competitive examinations, enjoyed tenure and were covered under legislation relating to civil servants. As for teachers' salaries, the representative indicated that, in the State sector, a primary schoolteacher was paid 140,000 pesetas monthly, after tax; a teacher at secondary level 160,000 pesetas; a university lecturer 260,000 pesetas; and an assistant lecturer 200,000 pesetas. The Government, she pointed out, had made provision for an 18 per cent pay increase for teachers in the 1992 budget.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

283. Members of the Committee asked to be provided with the texts of laws, administrative regulations, court decisions and other documents relevant to the right of everyone to benefit from scientific, cultural and artistic activities, which had not yet been submitted to the Committee; and wished to know what activities were undertaken in the cultural and scientific field by the central Government, by the government of the autonomous regions and by the local authorities, and what practical measures were being taken to enable everyone to benefit from those activities.

284. Members of the Committee also wished to know whether funding for theaters, libraries and museums was provided by the central authorities; what was the percentage of budgetary expenditure

devoted to culture and education; what was being done to ensure that culture was accessible to all citizens; whether creative works were supported and subsidized by the State; whether large opera houses, symphony orchestras, theaters and the like were subsidized or self-supporting; and whether Spain's cultural policies, activities and production of cultural works were also aimed at the wider Spanish speaking world. In addition, they asked whether the Church intervened in any way or attempted to impose a Catholic system of cultural values; and whether any legislative or other measures had been taken to preserve the cultural identity of the Basque people. Members of the Committee also noted that certain provisions of Spanish copyright law, guaranteeing protection for the intellectual property of Spanish authors and of foreign authors resident in Spain, did not extend to foreigners from States that did not offer reciprocal protection, and considered this was contrary both to international treaties and to the Covenant. Members of the Committee suggested that it would be preferable for a more detailed reply on the issue of intellectual property to be submitted to the Committee at a later date. A similar form of discrimination appeared to exist in the cultural sphere, as access to certain museums was free of charge for Spaniards or nationals of member countries of the EEC while other foreigners were charged for entry.

285. In reply, the representative of the State party said that the adaptation of the former highly centralized system of culture to the new model of political and administrative decentralization had involved a laborious legal process requiring 67 royal decrees. The decrees delimited the functions and identified the services that were transferred to the autonomous regions, the functions and services retained by central administration and the functions on which the two could cooperate and delineated the legal provisions, the staff and other measures affected by the transfer. A number of joint bodies had been set up to facilitate functional cooperation between the State and the autonomous regions in the administration of Spain's cultural heritage.

286. Activities in the cultural and scientific field mentioned by the representative of the State party were grouped under several headings. Under the heading of cultural infrastructure and services and support to arts and industries, the activities included related to archives, libraries, museums, theaters, cinemas, books and auditoriums for dancing and music and to Spain's historical patrimony. Under the heading of programmes of cultural activities and international dissemination of culture, mention was made of the Sub-Directorate-General of Cultural Cooperation, which included among its functions programmes designed to facilitate access to culture by people outside normal cultural circuits, such as libraries for hospital patients, cultural activities in prisons and army barracks, and organized programmes of activities in areas with particular geographic or economic difficulties. The Directorate-General for Cultural Cooperation was responsible for the dissemination abroad of Spanish culture and the coordination of such activities. The Sub-Directorate-General of International Cooperation was also concerned with the preparation of treaties for cultural exchanges, of which there were approximately 70 in force; monitoring Spanish participation in international cultural bodies; and supporting activities abroad to project Spanish culture and disseminate the languages spoken in Spain. In addition, the representative informed the Committee that a convention on cooperation in television had been signed with Latin America and that the first example of cooperation in the legislative field had been attendance at the Latin American Congress on Intellectual Property

287. In reply to other questions, the representative noted that a law on sponsorship was currently being prepared in order to encourage private support for the arts; that entry charges to museums

depended on whether they were privately or publicly owned; that in the Basque region per capita expenditure on education and culture was five times higher than the average figure for the autonomous regions as a whole; and that the Catholic Church expressed its views on cultural matters through the same democratic channels as used by others.

Concluding observations

288. The Committee expressed its appreciation to the representatives of the State party for the competence and thoroughness of their oral and written responses to the questions raised by the pre-sessional working group as well as by the members of the Committee concerning the second periodic report on articles 13 to 15 of the Covenant. The Committee, however, found that the written report was too short and thus inadequate. Noting the professional quality of the oral report, the Committee stated that the report should have been written with the same efficiency.

289. The Committee considered with satisfaction the progress made by Spain in the realization of the rights under consideration. With regard to remaining difficulties, the Committee was reassured that the Government of Spain would continue its efforts to ensure the full realization of the rights enshrined in the Covenant.

290. Although many of the questions raised by the Committee had been answered adequately by the representatives of the State party, the following required further clarification:

- (a) The extent to which policy in education was influenced by the Roman Catholic Church;
- (b) The relevance of new course specializations as they pertained to problems concerning the environment;
- (c) The integration of the handicapped and the disabled into mainstream education.
- (d) The difficulties arising from cultural plurality which deterred the full realization of the rights enshrined in the Covenant, and the measures being applied to alleviate such difficulties.

291. The Committee considered that in order to comply with the obligations which derive from the Covenant, additional measures should be taken in order to eliminate:

- (a) The disparities in the employment conditions of teachers in public and private schools;
- (b) The uneven distribution of students in universities resulting in conditions detrimental to the teaching-learning environment;
- (c) The gap between theory and practice in vocational education.

292. The Committee requested the Government of Spain to review the technical and legal points concerning the question of discrimination in the protection of intellectual property in relation to the provisions of articles 145 to 147 of the Copyright Law of 1989, which in the view of one member of the Committee raised questions as to full conformity with the provisions of the Covenant, and to

send its reply as well as relevant materials to the Committee in its next periodic report.

293. The Committee thanked the delegation of Spain for answering its questions and reiterated its appreciation to the delegation for the spirit of goodwill and sharing in the conduct of their dialogue with the Committee.

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95. At its 3rd, 5th, 6th and 7th meetings on 1, 2, and 3 May 1996, the Committee considered the third periodic report of Spain on articles 1 to 15 of the Covenant (E/1994/104/Add.5), as well as the written replies to the additional questions drawn up by the pre-sessional working group, and, at its 22nd meeting on 14 May 1996, adopted the following concluding observations.

A. Introduction

96. The Committee expresses its satisfaction with the detailed report submitted by the State party and the substantial additional information supplied in writing, as well as with the excellent dialogue established between its members and the large delegation of experts, including women, representing the ministries concerned.

97. However, the Committee regrets that the Government did not cover articles 7, 8, 9 and 12 of the Covenant in its report. Nevertheless, the Committee is satisfied with the oral information concerning those articles provided during the dialogue, which demonstrates the Government's firm resolve to implement all the provisions of the Covenant.

B. Positive aspects

98. The Committee congratulates Spain on the many steps it has taken, in constitutional law and otherwise, to promote the realization of the economic, social and cultural rights set forth in the Covenant. It notes with satisfaction the particular efforts which the Government has made to address unemployment in various forms, the positive action taken to enable adults to pursue academic studies, even through distance learning, the improvement of the status of motherhood and fatherhood, and the special attention paid to protecting the rights of elderly persons.

C. Factors and difficulties impeding the implementation of the Covenant

99. The Committee notes the difficulties currently being experienced by Spain as a result of structural changes and the economic recession. The decentralization and privatization of some social services, persistent large-scale unemployment and budget cuts affect the whole population, and especially the most vulnerable groups.

D. Principal subjects of concern

100. The Committee notes with concern that, despite the new legislative provisions in force, discrimination continues against women with regard to the right to equal treatment at work, the right to equal pay and access to education.

101. The Committee also notes with concern that, as a result of the economic recession, budget cuts have been made in the social welfare sector and have had a particular impact on the most vulnerable groups in society. In this regard, the Committee emphasizes the importance of the view expressed in its General Comment No. 3 (1990) on the nature of States parties' obligations 5/ (para. 12), that even in times of severe resource constraints, whether caused by a process of adjustment, by

economic recession or by other factors, the vulnerable members of society can, and indeed must, be protected by the adoption of relatively low-cost targeted programmes.

102. The Committee further notes with concern that the unemployment rate in Spain is extremely high, and particularly so for women and young people.

103. The Committee notes the persistence of a worrying rate of illiteracy, especially among women and in certain southern regions.

104. The Committee notes with great concern the growth in the number of acts of discrimination and racism against foreigners in Spain, particularly directed at groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.

105. The Committee notes that the central Government does not systematically collect disaggregated national statistics concerning the rights covered by the Covenant, and that consequently it does not always possess adequate data to enable it to evaluate the application of the Covenant fully and appropriately.

106. The Committee notes that the public as a whole and the media are still largely ignorant of the Covenant's provisions, with the result that the vast majority of the population is unaware of the commitments entered into by the Spanish authorities with regard to economic, social and cultural rights.

E. Suggestions and recommendations

107. The Committee recommends that the Spanish authorities continue their efforts to ensure effective equality between men and women, in particular with regard to access to education and jobs and equal pay for equal work.

108. The Committee recommends that the State party take special steps to protect the most vulnerable groups in society as effectively as possible against the impact of the budget cuts currently affecting the social sector.

109. The Committee encourages the Government of Spain to continue to devise and apply all possible measures to curb the present rate of unemployment. In that context, it suggests that the State party retain the integration of women and young people in the labour market as a priority policy.

110. The Committee encourages the Spanish authorities to take all necessary steps to reduce the level of illiteracy, which particularly affects women and certain population groups living in particular parts of the country.

^{5/} E/1991/23, annex III.

111. The Committee urges the Government to take all appropriate preventive and penal measures to combat effectively all forms of racial discrimination, which particularly affects groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.

112. The Committee recommends that the State party take the necessary steps systematically to collect and analyze disaggregated national statistics relating to the rights covered by the Covenant, in order to have an effective tool for monitoring the realization of those rights.

113. The Committee recommends that the State party's report and the Committee's concluding observations be extensively publicized within the country, especially through the media, the universities and interested non-governmental organizations.