



Economic and Social Council

Distr.
GENERAL

E/1986/WG.1/SR.25
6 May 1986

ORIGINAL: ENGLISH

First regular session, 1986

SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON THE IMPLEMENTATION
OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 25th MEETING

Held at Headquarters, New York,
on Tuesday, 30 April 1986, at 3 p.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

CONTENTS

Reports submitted under articles 6 to 9 of the Covenant (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.10 p.m.

REPORTS SUBMITTED UNDER ARTICLES 6 TO 9 OF THE COVENANT (continued)

Second periodic report of Colombia (continued) (E/1984/7/Add.21/Rev.1)

1. At the invitation of the Chairman, Mr. Albán-Holguín (Colombia) took a place at the table.

2. Mr. ALBAN-HOLGUIN (Colombia), responding to questions asked by members of the Group at the 22nd meeting, said that his country had not in the past engaged in the formal planning of investment, industrialization or wage levels. In view of the unemployment crisis in recent years, however, a government commission had recently drawn up proposals on short-, medium- and long-term planning which several ministries and ministerial departments were now considering with assistance from foreign experts.

3. The reasons for the very high unemployment included the fact that the children born in the years of very high fertility in Colombia were now reaching working age. Since the 1950s the country had invested massively in education, with the result that many of the unemployed were highly educated. In addition, the world economic crisis of the past few years had drastically reduced the value of Colombia's exports and its currency reserves, resulting in a cutback in production.

4. Indebtedness was not a reason for the country's high unemployment. Combined public and private debt totalled only \$10 billion, \$6 billion of that being public debt in the form of long-term loans from international development institutions. The Government had virtually no short-term commercial loans. It was a criminal offence for a business to contract foreign loans without permission from the financial authorities; when permission was granted, it was generally for modest amounts and on reasonable terms.

5. The Labour Code stipulated that employees could be dismissed without compensation only for reasons for which they themselves could be held directly accountable. The closure of a company, suspension of its activities or the death of the owner were not considered grounds for just dismissal. When unfair dismissal occurred the employee was entitled to compensation of one month's wages for each year worked, plus payment of all the related social benefits. When workers had less than 10 years' continuous service an employer had the option of dismissing them with compensation; workers with more than 10 years' service had an absolute right to reinstatement, and had only to present the court with their letter of dismissal and evidence that they had worked for more than 10 years in order to obtain a ruling to that effect. The purpose of the provision was both to stabilize employment and to protect workers' right to a retirement pension.

6. Although ideally Colombia should enforce its labour legislation in all places and at all times, it did not have enough labour inspectors to be able to do so. Instead the labour inspectors tended to react to complaints from employees or their

(Mr. Albán Holguín, Colombia)

unions, and the inspector could settle a matter brought to him by a worker without legal representation. Great efforts were being made to educate the work-force about its entitlements.

7. The judicial system in Colombia comprised the Supreme Court of Justice, with four chambers (for labour, penal, civil and constitutional law) and the Council of State. The original body of judges had been elected in equal numbers from the liberals and conservatives during the time of the Frente Nacional. All judges were elected for life. When a judge died or retired, the remaining judges elected his replacement, again for life, through a process of cooptación. The Supreme Court appointed judges to the higher courts which operated in each region of the country; each higher court had a civil, a penal and a labour division. Judges on the Council of State were also elected for life, and replaced by means of cooptación. The function of the Council of State was to rule on the constitutionality of laws and government decrees and orders, and legislation was, indeed, frequently struck down. The operation of the judicial system left no scope whatsoever for political interference.

8. Colombia had 2,172 trade unions with a total of 873,442 members. By resolution of the Ministry of Labour, trade unions were regarded as full legal entities. The four major trade-union confederations tended to group workers in similar sorts of professions. Members of all four confederations had been elected to the National Congress, but not as representatives of the trade unions: the Constitution forbade members of Congress to represent any private interests. Similarly, none of the unions was affiliated to any political party. On the other hand, the confederations could, and frequently did, collaborate in drafting proposals on workers' welfare for submission to the National Congress.

9. In 1985 the country had witnessed 87 work stoppages involving 15,554 workers; 19 strikes had been officially declared, involving a total of 4,272 workers in the transport industry, the agricultural savings bank and the commercial banks. Some members of the Working Group had observed that workers in a great many occupations were denied the right to strike; in fact, that right was denied only to public-service workers. In 1985, although there had been no complete work stoppage in the public services, workers in some regions had organized a go-slow - "operación tortuga" - in support of their demands.

10. Where two trade unions operated within one business it was the function of the labour inspector to call a meeting of all the employees in order to determine which union should be recognized. The decision by a labour inspector to recognize one union over another was, of course, subject to challenge in the labour court, which had the final say.

11. Legislation had been passed in 1982 to harmonize all the regulations governing the operation of family-compensation funds. The 1982 Act was the only such piece of legislation in Colombia.

(Mr. Albán Holguín, Colombia)

12. Colombia was trying to deal with its "underground economy" by encouraging the creation of small businesses. A complete programme had been set up to that effect. The most important part of the programme was concerned with training small businessmen in accounting and marketing, and with channelling funds to worthwhile projects as they were identified. The country had borrowed from the Inter-American Development Bank to support an initial target of 40,000 small businesses, but that target had been left far behind: the current target was 100,000. He hoped further information would be provided in the next report.

13. In addition to the 15 days' paid holiday to which, under the Labour Code, Colombian workers were entitled, there were many - perhaps too many - religious or secular public holidays.

14. Pension benefits could be passed from either spouse to the other; if a married woman drawing a pension died, therefore, her widower was entitled to her pension.

15. The National Committee for Occupational Health was attached to the Ministry of Health. Its current role was principally educational: businesses and employees were not yet ready for compulsory measures, and in any event the Committee did not yet have the means to enforce such measures. There were no plans to adopt binding regulations for the next two years.

16. Slow progress was being made in the creation of a skilled, career civil service, but it had not been possible to keep up with the rapid increase in the number of highly-educated young people. The Institute of Educational Credit and Technical Studies Abroad had provided the funds for 11,600 students to pursue post-graduate courses outside the country; another 12,000 students were pursuing such courses within Colombia. In total, bursaries had been granted to 60,000 students for study abroad and to 180,000 for study in Colombian institutions. The Government was making use of some of its new graduates in all areas of activity; the national Administration as a whole tended to be made up of comparatively young, very highly-trained people.

17. Industrial accidents were covered by social security and both specialized and general medical care were provided. The minimum wage was currently \$100 a month and could be adjusted to inflation, but collective agreements could provide for more than the minimum. Enterprises contributed to the family-allowance funds (para. 206 of the report) and families received benefits partly in cash, and partly in kind. Recipients of family allowances also enjoyed discounts in supermarkets and in health and recreational services.

18. Even though the law provided for the possibility of exceptions to the provisions on non-discrimination among workers, in practice there were no exceptions. The country's available resources were being mobilized to ensure full protection of economic, social and cultural rights even in the face of a growing population, but no study had been made of what the ideal population-growth and investment rates should be to ensure those rights. The 1985 census, however, would provide that information in due course.

(Mr. Albán Holguín, Colombia)

19. Under the law, employees must work no more than 8 hours a day, 40 hours a week, but overtime was possible by way of exception and at a higher rate of pay. Concerning unemployment among highly-trained and professional people, he said that it was greatest among those in fields related to economic development, such as engineers, accountants and computer experts, and might even increase until economic conditions improved.

20. The annual budget of the National Apprenticeship Service (SENA) referred to in paragraphs 42 and 43 was 29 million pesos. SENA's functions included making arrangements to ensure the participation of enterprises in its efforts to provide vocational training for workers.

21. Mr. Albán-Holguín (Colombia) withdrew.

Second periodic report of the Federal Republic of Germany (continued)
(E/1984/7/Add.24 and Corr.1)

22. At the invitation of the Chairman, Mr. Giesder and Mr. Willers (Federal Republic of Germany) took places at the table.

23. Mr. GIESDER (Federal Republic of Germany), referring to the Government's role in dealing with unemployment, said that in a market economy in a democratic society the Government's function was to establish conditions to improve the economy and thereby the ability of the labour market to function properly. In his country that was done by: (a) reduction of interest rates through reduced public spending in order to stimulate investment and thereby create more jobs; (b) construction programmes and direct investment; (c) vocational-training programmes, the creation of new types of jobs, the reduction of overtime, reduced admission of aliens, job-sharing and flexible hours; (d) measures to ensure price stability and minimize inflation in order to assist people on fixed incomes; and (e) tax reductions. Those measures had the effect of reducing unemployment without interfering with the free play of economic forces.

24. His country had ratified the two Covenants at the same time and regarded them as inextricably linked, but felt that whereas the Covenant on Civil and Political Rights could be implemented directly by the Government, the Covenant on Economic, Social and Cultural Rights could be implemented only by overcoming economic difficulties. The Federal Republic of Germany sought balanced economic relations among the developed and developing countries in order to reduce the prosperity gap between them through an expanding world economy in which market forces were allowed to operate.

25. The Federal Republic's entry into the European Community had necessitated no changes in those provisions of German law which related to equality between men and women because the country's Constitution had established that equality long before. The relevant social-security provisions of his country had in fact become the basis for European law in that area.

26. Mr. WILLERS (Federal Republic of Germany), referring to paragraph 2 of the report, said that his Government did not regard the right to work as giving rise to an obligation of the State to provide jobs; rather, it was the duty of the Government to establish a framework for the creation of jobs. The Government could not dispose of manpower as it wished. It could only establish the economic and social conditions that would enable each worker to find the kind of work best suited to his capacities and inclinations. The very concept of unemployment insurance, as provided for in the relevant ILO conventions, was superfluous if the State had to provide jobs. In his country its function was rather to promote and maintain full employment.

27. In connection with paragraph 7, he said that his Government's view was not that unemployment was inevitable and had to be accepted but only that if young people were jobless it was better for them to use that time for vocational training.

28. Mr. GIESER (Federal Republic of Germany), referring to the problem of Berufsverbot, said that it was no more than a measure imposed in a criminal judgement to prevent a criminal from abusing his professional activity in order to commit crimes. The requirements for entry into the civil service were fully in accordance with article 6 of the Covenant and an individual civil servant could even appeal to independent tribunals if he thought he was being treated unfairly. He would refrain from further comment because such a case was sub judice before ILO.

29. Mr. WILLERS (Federal Republic of Germany) said that measures were being taken in his country to increase employment through public works, enabling local administrations to carry out projects that could not have been executed otherwise for lack of funds. All unemployed, regardless of category, could obtain employment in such projects for the same wages they would normally receive through collective agreements.

30. Concerning the structure of unemployment, he said that it was greatest in such sectors as commerce, sales, general services and transport, but that since those sectors were large, the figures could be deceptive. Unemployment was decreasing in metallurgy, engineering, the natural sciences and construction but increasing in such fields as administration and management, education and the applied sciences. The average length of unemployment was currently 6.8 months, and 32.8 per cent of the unemployed remained without work for over a year.

31. With regard to the differences between unemployment pay and unemployment benefit (para. 32 (b) and (c) of the report), the former could extend for a maximum of one year (18 months for elderly workers) depending on the length of membership in the insurance programme, and amounted to 68 per cent of the last net salary for those with children and 63 per cent for all others. The unemployment benefit began where the unemployment pay left off and continued indefinitely, but was awarded only if a household's total income was inadequate; it amounted to 58 per cent of the last net salary for those with children or 55 per cent for all others. Sixty to 70 per cent of unemployed workers had received unemployment pay or unemployment benefit, 40 per cent of them having received the former and 60 per cent the latter.

(Mr. Willers, Federal Republic
of Germany)

32. It was hard to give a figure for those living below poverty-level, since the definition of poverty was disputed. At any rate, in 1983 approximately 1.7 million had received regular social-assistance benefits because of inadequate income.

33. Youth unemployment in the Federal Republic of Germany, unlike other industrialized countries, was lower (at 7.8 per cent) than general unemployment (9.8 per cent). Whereas formerly most young people had been virtually guaranteed jobs, after completing the vocational training system in force - a combination of school and on-the-job training (para. 6 of the report) - the Government's current campaign to encourage enterprises to train as many young people as possible, beyond the enterprises' own needs, had created a situation in which the trainees were no longer ensured work. Thus, there was now unfortunately a growing body of skilled unemployed among the young, and the Government, as a partial remedy was subsidizing some advanced-training programmes for them. Its general philosophy, however, was that the best way to combat youth unemployment was to fight unemployment in general.

34. The number of civil servants, which had declined in 1985, was so high because of the dual federal-Länder structure, with the Länder employing 10 times as many as the federal Government. The fact that postal employees and teachers were also included in the civil service served to swell the figure.

35. Turning to questions related to article 7 of the Covenant, he explained that occupational accidents had gone down not because of legislation but because of other factors like the improvement of inspection procedures, technological development, or greater safety awareness on both sides. Sanctions for unsafe practices ranged from warnings to fines to actual closure of enterprises. Physical injuries in general were covered by accident insurance, but employers were liable for damages where it could be proved that there had been premeditation on their part to provoke an accident - for instance, by deliberately exposing a worker to a dangerous situation. The insurance agency could, on the other hand, bring a complaint against an employer on the grounds simply of grave negligence directly leading to an accident. Material as opposed to physical injury was not covered by accident insurance, but workers could claim material damages from an employer if it could be proved that he was responsible for the accident under civil law.

36. There was no formal training programme as such for personnel responsible for safety and inspections in the workplace. Doctors, technicians and jurists were all involved, each with their own separate training.

37. Concerning the length of the work week, under collective wage agreements in 1984, which incorporated a flexible arrangement, the work week averaged 38.5 hours. The possibility of part-time work existed, particularly in the public service. It was generally agreed that the reduction of working hours helped somewhat to create jobs, although the correlation was not mathematical. The trade unions officially supported the Government's current campaign to reduce overtime, but some of their membership opposed any limitation.

(Mr. Willers, Federal Republic
of Germany)

38. The question of sanctions for illegal dismissals was a topical issue in his country, since workers challenging a dismissal could not under current conditions find work readily while recourse proceedings dragged out. It was now usual for a court of the first instance to declare that the dismissal could not be made final as long as court proceedings were under way.

39. Mr. GIESDER (Federal Republic of Germany) said that there were only a few - but large - trade unions in the Federal Republic, each representing one industry, regardless of the kinds of work done. The degree of unionization varied greatly, from almost 100 per cent, for instance, among the railway workers to 10 per cent in agriculture and forestry. Average unionization had remained fairly constant at around only 37 per cent, possibly because union dues were high and because non-members also benefited from improvements fought for by the unions.

40. Worker participation in the management of enterprises had existed in some form in almost all larger enterprises since the passage of the Workers Participation Act in 1976. He drew attention to his country's initial report (E/1978/8/Add.11), where the question had been discussed (p. 6).

41. He made available more detailed information on both questions to the members of the Working Group.

42. Mr. WILLERS (Federal Republic of Germany), referring to protection against the dismissal of union activists, said that no one could be dismissed for the mere fact of membership in a union-management council or for participation in a strike. However, if a striker committed acts that violated his contract during a strike, he could be dismissed. No public authority had the right to prohibit strikes, but there were government regulations regarding what constituted a legal strike, namely, that it had to have been called by a union for a purpose in keeping with the collective agreement. Employers could ask the courts to rule on the legality of a strike. The number of strikers in recent years had varied from 300,000 in 1968 to 400,000 in 1984. No statistics were available on the reason for the strikes, but they were usually called to improve working conditions such as pay or length of working hours. Sometimes, collective agreements were concluded as the result of a strike.

43. Regarding the complicated question of paragraph 116 of the job-promotion law and its effect on the right to strike, he had circulated some material to the members of the Working Group and it would be dealt with more fully in the next report. In brief, one provision of paragraph 116 had recently been changed. Formerly it had stipulated that, if a strike in one region prevented workers in the same branch of industry in another region from working, the latter could collect unemployment benefit, unless the same demands had been raised in that second region. The courts had ruled subsequently that the "same demands" meant absolutely identical demands; but paragraph 116 had now been amended to stipulate that the demands did not necessarily have to be absolutely identical. It should be noted, of course, that other laws had been passed to help all those indirectly affected by a strike, on which the next report would give details.

(Mr. Willers, Federal Republic
of Germany)

44. Regarding rights under article 9 of the Covenant, it must be understood that the State had reduced certain health benefits as a last resort to prevent the collapse of the entire health insurance system. Also, increases in pension benefits were not pegged to inflation but rather to wage trends. The mandatory retirement age was 65, with possible extension to 67, for both men and women, although women could retire at 60 and most did. Persons receiving pensions could engage in some limited lucrative activity. For information on company pensions (para. 27 of the report) he referred the Working Group to the discussion of the matter in his country's initial report. They were pensions provided by firms and were taken into consideration in calculating contributions to sickness benefits. Regarding the percentages of insured persons in the Federal Republic, 90 per cent had health insurance and 80 per cent old-age insurance, in addition to the numbers insured under civil-service and private insurance schemes.

45. Regarding the employment of the handicapped, it was required by law that at least 6 per cent of the positions in any firm with more than 16 employees must be allotted to seriously handicapped persons; firms not meeting that target must pay a certain proportionate amount into a fund for the handicapped.

46. He explained that there were two kinds of maternity benefits: mothers received maternity leave of six weeks prior to and eight weeks following their confinement, during which they continued to receive their pay. Beyond that they were allowed a further four months' leave on partial pay of 600 marks per month.

47. Mr. GIESDER (Federal Republic of Germany) said that the working party on women (para. 3 (e) of the report) which should properly be rendered as "Task Force on Women", was empowered to deal with all questions brought before it with a bearing on the status of women. The Director of the Task Force was also his country's representative to the United Nations Commission on the Status of Women. No statistics were available on the percentage of women in leading positions, but in 1980, 11.4 per cent of permanent federal civil servants were women; 3.4 per cent at the highest grade were women and 6.8 per cent at the second highest grade were women. Currently, 2 of the 15 federal ministers were women, and 9.8 per cent of the Bundestag members were women. Most women's organizations were grouped under the German Council of Women, which co-ordinated its activities with the Task Force, and had played a prominent role in the preparations for the 1985 Nairobi Conference on women and was active in the implementation of the Forward-looking Strategies adopted there.

48. Mr. WILLERS (Federal Republic of Germany) said that women's salaries lagged behind those of men by approximately 20-25 per cent in the Federal Republic, but the reason for the gap was not an unfair salary scale but rather the training and aspirations of women themselves, who still preferred to enter certain poorly-paid professions and were also less disposed to do overtime. As a result, in practice, some occupations consisted exclusively of women and some exclusively of men. There was a government campaign, however, to counteract past, stereotyped thinking and

(Mr. Willers, Federal Republic
of Germany)

attitudes and to steer women into professions that had heretofore been the province of men. Unemployment was higher among women than among men, not least because many women were employed in fields where there was a high risk of unemployment. The measures adopted recently in that connection would be dealt with in the following report. In principle, the rules governing the question of the burden of proof were applicable, but in cases where it was difficult to provide proof the legislature had permitted a reversal of the principle of burden of proof.

49. An alien was defined as being anyone residing in the Federal Republic of Germany who was not a national of the Federal Republic and who was a national of another country. Migrant workers were workers who had social-security rights but were not nationals of the Federal Republic of Germany. There was no information available on the number of illegal foreign workers in the Federal Republic. Seasonal workers, who were nationals of the countries of the European Economic Community, were another special category, but a small one.

50. Mr. GIESDER (Federal Republic of Germany) said that there were no exact statistics on German workers abroad, since Germans were free to leave their country without giving notice of their departure. However, it was estimated that there were about 500,000 German workers abroad. The principal destinations of Germans who had moved abroad in 1983 had been the other European Community countries and the United States. Germans abroad were not obliged to register with consulates of the Federal Republic of Germany, but consular protection was considered the best way to serve the interests of German workers abroad.

51. Mr. WILLERS (Federal Republic of Germany) said that unemployment among aliens was high because there were very few white-collar workers among the migrant workers and, in general, migrant workers had less training. Migrant workers were therefore employed in fields where there was a high risk of unemployment. In 1984 and 1985 unemployment among aliens had fallen slightly and unemployment among nationals of the Federal Republic of Germany had risen somewhat.

52. There was no discrimination against aliens regarding, for example, the right to work, social-security entitlements and trade-union rights. However, certain types of employment, for example, in the civil service, were open only to nationals of the Federal Republic of Germany. The Federal Republic had concluded agreements with some countries of origin in order to ensure that foreign workers who returned to their countries of origin could be reintegrated into society there. Legislation adopted in 1983 and 1984, which had been applicable for a limited duration only, had been designed to encourage workers to return to their countries of origin.

53. In 1985, migrant workers had represented 7.8 per cent of all workers in the Federal Republic of Germany and had been concentrated mostly in manufacturing (10.7 per cent) and in the construction industry (10 per cent).

54. A whole series of measures had been adopted with a view to providing the children of foreign workers with language instruction and vocational training.

55. Mr. GIESDER (Federal Republic of Germany) said that in December 1985 there had been approximately 605,000 foreign refugees in the Federal Republic of Germany, 59,000 of whom had been granted political asylum. Refugees represented about 1 per cent of the total population, which was the highest proportion in Western Europe. Although they were welcome for political and humanitarian reasons and xenophobia was largely unknown, their presence created serious problems for the Federal Republic, whose capacity to accept refugees was not unlimited. The Government of the Federal Republic therefore strongly supported the international community's endeavours to deal with refugee problems.

56. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that the Working Group should avoid engaging in polemics. It was to be hoped that in its following report the Federal Republic of Germany would be able to state that unemployment had been eliminated in that country. Moreover, account should be taken in the following report of the comments made by members of the Working Group on the question of the Berufsverbot (the prohibition to practise certain professions).

57. Mr. TEXIER (France) said that once there was no longer any controversy about social systems there would no longer be any polemical answers either.

58. Mr. POERSCHKE (German Democratic Republic) said that the Berufsverbot appeared to be directed against criminals. He wondered whether it was a crime to be a member of a legal political party. Moreover, the measure in question chiefly affected teachers, postmen and gardeners, not members of the armed forces and high-ranking officials.

59. Mr. MRACHKOV (Bulgaria) said that if the delegation of the Federal Republic of Germany had confined its remarks to legal and technical aspects of the question before the Working Group, there might have been more time to consider matters relating to the Covenant.

60. He noted that the reply dealing with the question of the Berufsverbot was based on views expressed by a monitoring body of a specialized agency. The Working Group could not be regarded as being subordinate to another monitoring body.

61. Mr. Giesder and Mr. Willers (Federal Republic of Germany) withdrew.

Second periodic report of Poland (E/1984/7/Add.26)

62. At the invitation of the Chairman, Mr. Karwanski (Poland) took a place at the table.

63. Mr. KARWANSKI (Poland), introducing the report of Poland (E/1984/7/Add.26), said that, since the report covered the period 1980-1985, he wished to describe the developments that had taken place in Poland from the end of 1985 to the beginning of March 1986.

64. The employment situation had been influenced both by the 1980 economic crisis and the economic reform that was being implemented. The purpose of the reform was to restructure the economy and rationalize employment by means of economic

(Mr. Karwanski, Poland)

incentives. Since it had been expected that employment opportunities would decrease, a number of decisions had been adopted with a view to ensuring proper use of redundant labour and providing social-security benefits for temporarily-unemployed persons. Redundant workers who had failed to find employment owing to a lack of appropriate opportunities or who intended to become active on their own account in the fields of agriculture, crafts or services had been entitled to six months' paid leave.

65. In the period 1982-1984, new regulations had been adopted with a view to enabling the State to make provision for persons seeking employment, job-training or retraining. The State Professional Activation Fund had been established in that connection. Moreover, certain categories of workers had been given the right, on a temporary basis, to retire early (Council of Ministers decision of 17 July 1981). Other measures, such as extended maternity leave and leave for bringing up children, had also reduced the labour supply, which, together with other factors, had led to a manpower shortage. Currently, part-time employment was being offered even to pensioners and women on paid leave to bring up their children.

66. In 1983 incentives had been introduced for school-leavers taking up employment (Council of Ministers ordinance of 31 August 1983). As a result, employment was now available for all school-leavers seeking it.

67. Council of Ministers resolution No. 263 of December 1983 played an important role in the development of workers' skills. Moreover, there were over 250 vocational-guidance centres for young people who had completed their vocational training, and the employment- and social-affairs offices provided extensive vocational information.

68. The Act of 18 April 1985 concerning examination by the courts of matters in the field of labour law and social insurance and the Act of 18 April 1985 concerning amendment of the Code of Civil Proceedings Act dealt with labour relations and implementation of the principle that justice could be administered only through the common courts, special courts and courts for petty offences. That legislation, which had entered into force on 1 July 1985, made provision for workers to vindicate labour claims in the courts. Labour disputes were examined by the labour courts and the labour and social-insurance courts. In most instances, disputes were examined by one judge and two lay judges. The Minister of Justice, the Minister of Labour, Wages and Social Affairs, the First President of the Supreme Court, the Public Prosecutor and the All-Polish Trade Union Consensus were entitled to lodge extraordinary appeals in cases where final sentences violated the law or the interests of the Polish People's Republic. Workers could request conciliation proceedings before a dispute was taken before a court. New works and district arbitration committees had been established for that purpose, and the former works and district arbitration and labour-appeals committees had been dissolved.

69. A resolution adopted by the Council of Ministers in June 1983 dealt with the adjustment of the principles governing workers' remuneration to take account of the economic reform. The provisions of that resolution were in keeping with the

(Mr. Karwanski, Poland)

relevant collective agreements. Moreover, a system of establishment agreements had been set up. Under the legislation in question, union organizations and managers could conclude agreements on the introduction of remuneration schemes. Following registration by the Office of the Minister for Labour, Wages, and Social Affairs, such agreements replaced the regulations on remuneration laid down in the relevant legislation, including rules concerning remuneration for the duration of labour stoppages for which workers were not responsible and the conditions applicable to overtime remuneration. Such agreements were entirely voluntary and now covered approximately 50 per cent of the workers employed in the socialized sector.

70. The 1979 register of jobs from which women were prohibited had been amended in 1984 to take account of recent scientific findings in the field of occupational safety. With effect from January 1986, women under the age of 35 would no longer be employed in conditions of exposure to asbestos dust. A register of jobs prohibited to juveniles was under preparation. A system of certification was also being established to ensure that machinery and technical equipment complied with health and safety requirements.

71. The State Labour Inspectorate created by an Act of Parliament to enhance the supervision of working conditions had replaced labour inspection by trade unions. The Inspectorate was empowered to impose fines for violations of labour laws and occupational-safety standards. Other State supervisory organs were required to co-operate with the State Labour Inspectorate. A draft order on general principles of occupational safety was currently being prepared by the Ministry of Labour, Wages and Social Affairs in consultation with specialized institutions and trade unions. The new order would replace the regulations currently in force. In order to ensure that economic reforms did not adversely affect the system of work protection, the Government had taken a number of measures, those enumerated in paragraph 42 of the report.

72. With regard to article 8 of the Covenant, mention must be made of the fact that the legitimate protests of the workers against deviations from the fundamental principles of socialism had been misused by anti-socialist elements whose objective had been to penetrate the ranks of the working class and to use the latter's dissatisfaction to further their own struggle against the political system and the Party. It had been hoped that the agreements signed between the Government and the strike committees would have brought about a new social climate leading to greater and more efficient production and an increase in national income. Unfortunately, however, unwarranted wage increases had been accompanied by escalating demands and political action aimed at destabilizing the economy. The resulting wave of strikes, terrorism and linking of economic action to political concessions, had led, in 1981, to a 13-per-cent drop in production, a 14-per-cent drop in exports and a 24-per-cent increase in wage costs. That situation had prevailed despite numerous appeals by the Government. The introduction of martial law and the suspension of Solidarity (Solidarność) and other trade unions had gradually restored normalcy and had led to an improvement in the economic situation despite the economic blockade imposed by NATO countries, and thanks to the considerable help received from the Soviet Union and other socialist countries.

(Mr. Karwanski, Poland)

73. It was against such a background that the Trade Union Act had been adopted in October 1982. The International Labour Office and existing trade unions, including Solidarity, had been consulted in the drafting of the Act, which had become the basis for the activities of the new trade-union movement. Such activities were based on the principles of independence, self-management, voluntary membership and democracy.

74. Since its adoption, a number of changes had been proposed to the Act and some amendments had already been made. The amendments were aimed, inter alia, at reinforcing the trade unions' role as the representative of all the workers, and not only of its members, improving co-operation between trade unions and State administrative organs, and increasing the responsibility of trade unions in monitoring observance of workers' rights and obligations.

75. The new Act also defined trade-union responsibilities in the areas of the development and dissemination of culture, education and sport; the protection of workers' health in co-operation with health service establishments; social insurance; and the protection of pensioners. Under the Act, trade unions had been granted considerable influence over labour law and social-insurance norms and were entitled to submit proposals on the drafting or amendment of legal provisions, through the All-Polish Trade Union Consensus. The latter body had been granted the right to apply to the Supreme Court for special review of final sentences in matters connected with labour law and social insurance.

76. The Act also governed certain organizational aspects of trade-union activity and introduced new provisions concerning release from work for performing trade-union functions. The employment of trade-union militants was protected under the Act and the employment contracts of such militants could not be changed to their detriment.

77. As of 31 December 1985, 5.7 million workers, the great majority of them manual workers, had been members of trade unions. National trade-union structures, however, had not yet developed sufficiently to enable the trade-union movement to exercise fully its statutory rights, particularly its right to consult with the Government on proposals for amending the pay system as well as on matters relating to workers' living conditions.

78. With regard to the right to social security, efforts had been made to protect living conditions, especially pensioners and persons maintaining families. The measures taken included increases in family allowances for low-income families, nursing allowances for disabled children or children requiring special care, and pensions. Owing to the growing cost of financing social-insurance benefits, contributions had increased to 43 per cent in socialized establishments and 33 per cent in non-socialized establishments.

79. Mrs. JIMENEZ BUTRAGUENO (Spain) said that she was interested in the reasons for the apparent imbalance between the demand for and the supply of labour. She would also welcome further information on the credit facilities available to employees (E/1984/7/Add.26, para. 12).

80. With regard to the reported decrease in employment (para. 10), it would be helpful if statistics could be provided. Further, she wished to know which groups were most affected by unemployment and what the situation of women was in the labour market.

81. She had noted in paragraph 23 that all school graduates who had applied for work in 1982 had been employed, and would be interested to learn how that had been achieved.

82. She would welcome information on the basis used for classifying invalids into groups I and II (para. 41). She would also appreciate further details on the modalities of the tax-relief scheme mentioned in paragraph 42.

83. With regard to paragraph 28, she wished to know under what conditions employees participating in lessons on their own account could claim travel, board and lodging costs from the management of their enterprises. What were the limits to such payments and what categories of workers were entitled to them?

84. On the subject of maternity benefits for working mothers, the report contained two separate references to paid and unpaid leave for such mothers. She would welcome a clarification of that apparent contradiction and asked whether fathers were also entitled to the unpaid leave mentioned in paragraph 18. She would also welcome further information on child allowances.

85. She was surprised that Poland was not experiencing difficulties in its social-security system and asked whether the phenomenon of an aging population was not present and what the percentage of young people was in the total population.

86. Lastly, on the question of trade-union activities, she wished to know whether it was possible today to form a trade union in the same way as before the events of 1981 involving Solidarity.

87. Mr. POERSCHKE (German Democratic Republic) requested information on the privileges to which pregnant women in employment were entitled at the time they gave birth and what rights they maintained if they chose to take leave. He wondered whether fathers were entitled to the same rights if they had responsibility for taking care of a child.

88. He noted from paragraph 23 that all school graduates who had applied for work in 1982 had been employed and wondered whether that also was true for the years since then. He wished to know whether employment was guaranteed to all young people completing their training and what rights apprentices had in Poland.

(Mr. Poerschke, German Democratic Republic)

89. With regard to safe and healthy working conditions, he would like further details concerning the State Labour Inspectorate (para. 45), including how many people it employed, whether it co-operated with the trade unions and whether there were specific training programmes for its employees.

90. He said he had been most impressed by the Government's efforts, despite its difficulties, to improve social security. He inquired what the average amount of the old-age pension was and how it compared with the minimum and with the average wage. He also wished to know what the Polish Government was doing to ensure that the elderly could participate in the life of the community: were there any specific organizations that catered for their needs? He requested more detailed information on the insurance system and inquired whether it had been amended during the period covered by the report. He would also appreciate statistics for insured persons at the current time, as compared with 10 years previously.

91. Mr. HOPPE (Denmark) said that the report, which he found in general to be interesting and forthright, concentrated on the legal background to the implementation of the Covenant. He considered, however, that it was more important to know the extent to which the Covenant was being implemented and he would appreciate more information in that respect in the next report.

92. He said that he was not sure why paragraph 1 had been included in the report. But, since it was there, he would like clarification as to how to interpret the statement that respect for national sovereignty and non-interference in the internal affairs of other States were indispensable to the implementation of human rights. It was considered in the United Nations that concern for human rights did not constitute interference. He inquired whether that was also the position of the Polish Government.

93. On the subject of employment, he sought confirmation as to whether the terms "surplus workforce" in paragraph 9 and "decrease in employment" in paragraph 10 meant unemployment. He inquired whether there was any unemployment in Poland and, if so, what percentage of the work-force it affected.

94. With regard to equal opportunity for promotion, reference was made in paragraph 52 to the "principle of equitable and non-discriminatory treatment of employees". He requested confirmation that the political affiliation of an employee played no role with regard to promotion.

95. Turning to the subject of trade-union rights, he said that he was aware of Poland's difficulties in that area during the previous few years. Reference was made in paragraph 59 to people's right under the Constitution to organize into trade unions, but the representative of Poland had stated in his introduction that a trade union had been dissolved. As far as he (Mr. Hoppe) understood, it had had more than 10 million members: the policy appeared to him to be incoherent. He wished to know whether the new trade unions that were being formed had to be officially sanctioned. He was not sure how Polish unions were able to operate independently of the authorities and requested clarification in that regard.

(Mr. Hoppe, Denmark)

96. On the right to strike, he wished to know more about the "conditions governing the admissibility of a strike" (para. 75). Who decided whether a strike was admissible? He would also appreciate further information concerning restrictions on the right to strike (para. 76); they appeared to apply to large sectors of the community. He inquired how many members of the new trade unions had been members of Solidarity (Solidarnosc) and what percentage of the total labour force current membership of trade unions represented. He also sought clarification concerning a remark made in the introductory statement to the effect that new trade unions represented all workers, not just their members. He was not sure how that was consistent with the freedom to organize, which presupposed the right not to organize.

97. Mr. MRACHKOV (Bulgaria) said he would be interested in obtaining more details on the provisions of the Polish Constitution with respect to the protection of workers' rights. He also requested further information on the new system of school graduates' employment and the economic incentives to influence graduates' decisions when choosing work (para. 24).

98. With regard to remuneration, he sought further information concerning the agreements referred to in paragraph 32, including the principles and criteria on which they were based. How many workers did they concern and for what period had they been concluded?

99. On the subject of safe and healthy working conditions, he noted from the report that there were two bodies concerned with supervision and control and wished to know what co-ordination there was between them, how their functions were divided and what their powers were.

100. With regard to social security, he requested information concerning its financing; what was the overall amount provided for it in the budget in the past two or three years?

101. Mr. YAKOVLEV (Union of Soviet Socialist Republics) noted that in spite of all its difficulties Poland was implementing the Covenant. Those difficulties included the current imperialist economic blockade; he wondered to what extent it was affecting the country's social development.

102. He inquired how many national federations of trade unions there were currently in Poland and what proportion of the labour force their membership represented. Was it possible for a trade union to transfer from one federation to another? He also wished to know what had happened to the funds of previous trade unions: had they been given to the new unions and if so how had they been distributed?

103. Mr. RUIZ-CABAÑAS (Mexico) said that he would appreciate it if the representative of Poland would indicate what the principal factors were that had provoked Poland's economic crisis and to what extent external factors, for example the price of raw materials, were to blame. How was the burden of external debt servicing affecting the country's economic development and thus employment?

(Mr. Ruiz-Cabafias, Mexico)

104. He was not sure quite what was meant by the statement in paragraph 9 that since 1 January 1981 enterprises had been enjoying full freedom with regard to employment, and would welcome clarification as to what that freedom consisted of and how it related to the national economic plan. If the State set certain goals for particular enterprises, he wondered how their freedom with regard to employment could be exercised.

105. He inquired as to the number of single mothers in Poland. He also wished to know how many foreign workers there were in the country, whether they had settled permanently or temporarily, and how many Polish nationals were working abroad.

106. He felt that it would be of general interest to be informed about the principal economic reforms adopted in Poland in recent years and whether they had been effective. He was aware that in countries with a planned economy various methods were being tried out. Did Poland intend to continue along its current economic path?

107. Ms. KIMBALL (Secretary of the Working Group) said that the document circulated at the current meeting by the Polish delegation would be issued as an addendum to the report.

The meeting rose at 8.20 p.m.

