



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
16 August 2013
English
Original: French

Committee on the Elimination of Racial Discrimination Sixty-fifth session

Summary record of the 1658th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 11 August 2004, at 3 p.m.

Chairperson: Mr. Yutzis

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

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Initial report and second to fifth periodic reports of Tajikistan (CERD/C/463/Add.1; HRI/CORE/1/Add.128)

1. *At the invitation of the Chairperson, the members of the delegation of Tajikistan took places at the Committee table.*
2. **Mr. Khamidov** said that the Republic of Tajikistan was presenting its report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination for the first time. His country was in a transition phase and nearly half of its 13 years of independence had been marked by instability and civil war. The Republic of Tajikistan had set itself the goal of establishing a state of law and setting up a democracy by progressively adopting the basic principles and the values of today's civilized world.
3. He explained in detail the action undertaken by Tajikistan to ensure the implementation of the Convention on its territory, making frequent references to the information set out in his country's report (CERD/C/463/Add.1), in particular, with regard to article 1 of the Convention, paragraphs 1 to 6, 9 and 10; with regard to article 2, paragraphs 15 to 17, 21, 24 and 25; and with regard to article 3, paragraph 30.
4. In respect of article 4 of the Convention, relating to apartheid and segregation, he recalled the legal and other provisions described in paragraph 31 of his country's report.
5. Concerning the various economic, social and cultural rights protected under article 5 of the Convention, he reviewed at length the information in paragraphs 38, 47, 61, 69, 75, 77, 78, 80, 88, 89, 91, 100 to 102, 107 to 110, 117, 124 and 142 to 145 of the report.
6. With regard to legal protection of persons against racial discrimination by virtue of article 6 of the Convention, he drew attention to paragraph 148 of the report.
7. With regard to article 7 of the Convention on combatting prejudices that led to racial discrimination, he reviewed, in paragraphs 152 to 155 of the report, the information concerning his country's efforts in the fields of education, teaching and information to promote tolerance among national and ethnic groups.
8. **Mr. Avtonomov** (Rapporteur for Tajikistan) noted with satisfaction that the Tajik delegation was composed of high-level representatives, proof that the State party was taking its obligations under the Convention seriously. Tajikistan had a very ancient history and culture and a long tradition of coexistence between the different ethnic groups living there, which was reflected in the current Tajik language, a mix of Tajik, Farsi and Dari (a variant of Farsi spoken in Afghanistan).
9. The Republic of Tajikistan, despite the relative stability regained since the civil war had ended, was going through a difficult period marked by a disastrous economic situation, an unemployment rate so high and salaries so low that many Tajiks had had to emigrate to Russia, despite the clandestine lifestyle and exploitation that usually awaited them there. For many, learning Russian was, moreover, essentially motivated by the perspective of emigrating, and those massive departures were hurting the country's development. In spite of that, Tajikistan had ratified a large number of international human rights instruments. Other basic texts might follow as soon as the country was in a position to apply their provisions.
10. He noted with satisfaction that Tajikistan had not made any reservations at the time of signing the Convention, but regretted that it had not made the declaration under

article 14 of the Convention or accepted the revision of article 8. The delay in submitting the report — which had been drafted in compliance with the Committee's guidelines — could be explained by the civil war which had only recently still been devastating the country.

11. He welcomed the creation of an interdepartmental body responsible for drafting the reports that Tajikistan had to submit under the international instruments to which it was party, which could only foster cooperation between the various state institutions and, as a result, enable more effective implementation of the various international treaties.

12. He noted with satisfaction that the report described the measures that had been or would soon be taken to implement the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001.

13. He also noted with satisfaction that while national minority associations, communities, businesses and cultural centres had not participated actively in the drafting of the report, some 15 of them had been consulted in that regard, helping to build a working relationship between civil society and the Tajik authorities. In that connection, it would be useful to know what criteria such associations had to meet in order to register with the Ministry of Justice.

14. In respect of table 5 of the report, which concerned textbooks in national minority languages, it would be helpful to know why no textbooks had been published in Russian in 2000 and 2001. Was it possible that during that time, priority had been given to the renewal of textbooks in Uzbek, a language that now used the Latin alphabet and not the Cyrillic?

15. According to paragraph 18, there had been no court cases under articles of the Criminal Code relating to acts that violated the principle of equal rights for all citizens. Nevertheless, the lack of data on offences motivated by racial or ethnic hatred did not necessarily mean that the country had no crimes of that nature. He suggested that the competent authorities should endeavour to explain why no complaint had been brought in that regard.

16. He also wished to know what restrictions the Government could impose on foreigners' choice of a place of residence in certain parts of the country, in the interest of state security, order and public health (para. 59). What procedures did the foreigners in question have to follow; were there established procedures; did the competent authorities carry out expulsions; and who resolved conflicts between the authorities and individuals?

17. It was regrettable that the report provided no information on the situation of the Roma community in Tajikistan. According to reliable sources, the size of that population group had risen more than any other between 1989 and 2000, which would seem to demonstrate that they were satisfied with their life in Tajikistan. Did the delegation think so as well?

18. In general, it appeared that inter-ethnic relations were good in Tajikistan and the ties between the different communities were very strong, even if the language spoken in Greater Badakhshan was very different from that spoken in Dushanbe. Moreover, mentalities had profoundly changed in Tajikistan: the fact of belonging to an ethnic group, which in the past was a key determinant of social identification, seemed now to have lost all its importance.

19. **Mr. Valencia Rodríguez** recalled that Tajikistan was a multiethnic country composed of 120 nationalities and ethnic groups, which had been torn apart by inter-ethnic conflict until the 1997 General Agreement on the establishment of peace and national understanding in Tajikistan. Once independence had been gained, one of the key missions

had been to encourage minorities to affirm their ethnic origins, their languages, their customs and their traditions.

20. The Constitution and the law prohibited and sanctioned racial discrimination. Yet, according to paragraph 4 of the report, certain provisions of the Convention had still not been incorporated explicitly in Tajik law and administrative practice. The State party should fill that legal gap, and in addition should confirm the information according to which the Convention had primacy over domestic law and could accordingly be invoked before the courts.

21. With regard to paragraph 6 of the report, he wished to know what the “recognized” languages were, in which all citizens could receive official documents. According to paragraph 10 of the report, primary and secondary instruction was provided in five languages: how many schools provided bilingual instruction and how many children benefited from that type of education?

22. Information would be welcome on the living conditions of the relatively large group of Afghan refugees living in Tajikistan, in view of the fact that they were not entitled to become Tajik citizens even if they met the required criteria, and given that refugee status was systematically refused to individuals from certain countries.

23. It might be said that, in view of the Constitution, articles 143 and 189 of the Criminal Code and article 6 of the law on public associations, the State party had, generally speaking, met the requirements of article 4 of the Convention. Those texts should nevertheless be coordinated and standardized.

24. With regard to implementation of article 5, he would like to know to what extent minority groups had access to the major government bodies.

25. In respect of table 6 of the report, which showed that Tajikistan had always had a negative migration flow, an explanation from the delegation on how that phenomenon affected minority groups, especially Russians, would be welcome.

26. He wished to know which minority groups benefited the least from the legal, institutional and economic safeguards under the 2003 Promotion of Employment Act referred to in paragraph 114 of the report, and whether complaints had been brought before the administrative or judicial authorities for employment-related discrimination. It would also be interesting to know whether foreign workers had the same rights to unionize as other workers.

27. According to paragraph 138 of the report, foreigners and stateless persons resident in Tajikistan were entitled to the same pension benefits as Tajik citizens “except where Tajik law provides otherwise”. In what cases did the law refuse that entitlement, and according to what criteria?

28. According to paragraph 141 of the report, the Labour Code provided for unemployment benefits. It would be helpful to know in that regard which ethnic groups were the most affected by that problem and what measures had been taken to remedy the situation on the basis of the principle of equality.

29. It was unfortunate that the report had failed to provide detailed information on the legal standards that had been adopted to implement article 6 of the Convention. Additional information on that subject would be welcome.

30. In respect of article 7 of the Convention, he noted with satisfaction the establishment of various minority group associations, the publication of newspapers and magazines by and for those groups, and the organization of cultural events that fostered tolerance and mutual understanding.

31. **Mr. de Gouttes** said that in view of its complex history, its difficult economic situation and the multiethnic nature of its population, Tajikistan must build an effective model of inter-ethnic cooperation among the different groups living in the country (para. 2).

32. Would the delegation confirm whether, as stated in the report of the United Nations Tajikistan Office for Peace-building (UNTOP), non-governmental organizations (NGOs) and national minority groups had been consulted during the process of drafting the periodic report? Did the Tajik Government plan to set up a national human rights institution that was in accordance with the Paris Principles?

33. In respect of article 4 of the Convention, he suggested that article 62 of the Criminal Code (para. 32), which defined the motives constituting an aggravating circumstance for an offence, should be expanded to include as an aggravating circumstance motives associated with the victim's membership in a racial group, which was not expressly defined in the current text.

34. In terms of article 5 of the Convention, it would be useful to know what measures the Government planned to take in order to discourage Tajiks (approximately 600,000 according to the International Organization for Migration) from seeking work abroad, mainly in the Russian Federation.

35. In connection with article 6 of the Convention, he said that, according to paragraph 18 of the report, there had been no court cases in which criminal penalties for discrimination had been handed down. The absence of complaints or criminal procedures was not necessarily a positive sign but might arise from victims' lack of familiarity with their rights, lack of confidence in the authorities, fear of reprisals, or inadequate mobilization of the police and the judiciary with regard to that type of offence. In its next report, the Government should provide more detailed information on case law in that area. Was the translation of the pre-trial investigation and trial materials into the language of the defendant free of charge? What were the major thrusts of the terrorism act adopted in 1999 by the Government?

36. **Mr. Kjaerum** also wished to underscore the grave difficulties that Tajikistan had experienced and to welcome the progress it had made despite the circumstances. He hoped that the Government would ensure that the Committee's observations in respect of the report under consideration were made available to citizens, and to public bodies in order that they might use those observations as a foundation on which to build the measures needed to implement the Convention.

37. He was concerned by information indicating that some refugees and asylum seekers had been returned to their country of origin while their request had still been under examination and the criteria for obtaining refugee status, as set forth in the 1951 United Nations Convention relating to the Status of Refugees, had been met. Additional information on that matter would be welcome. Furthermore, under article 23 of the Citizenship Act, any refugee residing legally for at least two and one-half years on the territory of the Republic of Tajikistan could obtain Tajik nationality. Why had no refugee yet obtained Tajik nationality in that manner?

38. He asked whether trafficking in human beings was a criminal offence in Tajikistan. He also wished to know whether the Roma community in Tajikistan was actually marginalized, as some sources had claimed. He would welcome information about the mandate of the government commission responsible for ensuring that the State party respected its human rights obligations. Did the Government intend to replace the commission by a body that operated according to the Paris Principles?

39. **Mr. Pillai** noted with satisfaction that Tajikistan had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

Families of 1990. He regretted that the report had failed to provide information on the implementation of the country's constitutional and legal provisions relating to racial discrimination and urged the State party to create mechanisms and procedures to monitor the application of its legislation in that area. The Tajik population was ethnically highly diverse, and information on how the different ethnic groups exercised their fundamental rights would be welcome. Claims that the judicial branch was under pressure from the executive branch were a matter of concern, and the importance of impartial judicial institutions, especially in the field of human rights, should be kept in mind, in particular in the context of judicial reform. Numerous education, training and awareness-raising programmes on racial discrimination had been provided to police agents, judges and civil servants, which was commendable: had the State party assessed their effectiveness? Could it provide more detailed information on its cooperation with NGOs in undertaking various activities to promote human rights and combat racial discrimination?

40. **Mr. Amir** welcomed the fact that Tajikistan had established a human rights commission the mandate of which was to investigate allegations of racial discrimination. Nevertheless, the State party should act in accordance with the Paris Principles in order to ensure the commission's impartiality and independence more effectively. The Constitution contained a number of provisions linked directly or indirectly to racial discrimination, but, regrettably, the concept of racial discrimination was not explicitly defined therein.

41. **Mr. Sicilianos** commended Tajikistan for the clarity of its report and the wealth of information it contained on criminal law relating to article 4 of the Convention. The State party should in that connection define racial motivation as an aggravating circumstance for racially motivated offences. With regard to table 1 of the report, it would be useful to know why the percentages relating to the different ethnic groups, especially the Uzbeks and the Ukrainians, had declined so sharply between the population census of 1989 and that of 2000. He would also like to hear the delegation's views on claims that radio and television stations had been refusing to broadcast programmes in Uzbek and that Uzbek schools had been using the old academic curriculum and the Cyrillic alphabet, which allegedly contributed to the difficulties that Uzbeks youths had in finding a job after finishing school. He asked whether it was the case, as had been claimed, that the new Refugee Act of 10 May 2002 did not entirely conform to the 1951 Convention Relating to the Status of Refugees.

42. **Mr. Tang** commended the State party's success in drawing up in the few years since its accession to independence a relatively complete set of laws relating to racial discrimination. The Criminal Code generally met the requirements of article 4 of the Convention, but specific examples of procedures or sanctions for racial discrimination would be welcome. It was his understanding that members of the increasingly large Roma community in Tajikistan were victims of discrimination, which made it all the more surprising that the State party had failed to provide any information on that matter.

43. **Ms. January-Bardill** said that she was fully aware of the difficulties that the State party had had to confront since the end of the civil war and commended the efforts that had been made to combat racial discrimination through legal means. According to paragraph 4 of the report, the definition of "racial discrimination" and some other provisions of the Convention had still not been incorporated expressly into domestic legislation, and information on specific cases of racial discrimination in the country would be welcome. She wished to know what institutions were responsible for protecting and promoting the population's fundamental rights. She drew the State party's attention to the Committee's general recommendation XXV on gender related dimensions of racial discrimination and invited it to provide in its next report information on the way in which women were particularly affected by racial discrimination.

44. **Mr. Shahi** said that Tajikistan should redefine the mandate of the national human rights commission in the light of the Paris Principles in order to enable it to carry out its mission independently. He requested information on the Roma community and on the representation of the various ethnic groups in the political system and in public service.

45. **Mr. Boyd** said that in a recent report, the United Nations Secretary-General's Special Representative to Tajikistan had underscored the extent to which the concept of ethnic identity had been an important factor in the civil war that had ended in the late 1990s. It would be useful in that regard to know what programmes existed or might be envisaged to ensure political and ethnic reconciliation and the integration of the hundreds of national and ethnic groups living in the country. Had the Tajik authorities established restitution or compensation procedures for persons who had lost their property or who had been the victim of ethnic-related violence during the conflict?

46. **Mr. Lindgren** said that 120 national and ethnic groups lived in Tajikistan and that, according to the delegation, none of those many communities had shown any desire for separation or autonomy. It was astonishing that such a large number of different ethnic groups were so closely united in such a small country.

47. **The Chairperson** said that the Committee would continue its examination of the periodic report of Tajikistan at its next meeting.

The meeting was suspended at 5.30 p.m. and resumed at 5.40 p.m.

Prevention of racial discrimination, including early warning measures and urgent action procedures

Establishment of a working group to consider the status of implementation of the decisions and recommendations adopted by the Committee under the early warning measures and urgent procedures system

48. **The Chairperson** said that several members of the Committee, Mr. Cali Tzay, Mr. Avtnomov, Mr. de Gouttes, Mr. Shahi and Ms. January-Bardill, had volunteered to set up a working group on early warning measures and urgent procedures. Ms. January-Bardill could be assigned to coordinate the activities of the working group.

49. **Mr. Lindgren** said that he was uncertain about the proposal since a member of the Committee was already dealing with questions concerning early warning measures and urgent procedures.

50. **Ms. Prouvez** (Office of the High Commissioner for Human Rights, Secretary of the Committee) explained to Mr. Lindgren that, as set out in Annex IV to the annual report of the Committee on its fifty-eighth session (A/58/18), entitled "Overview of the methods of work of the Committee", the "Committee may decide to set up a working group to consider the status of implementation of its decisions and recommendations under the early-warning measures and urgent procedures and to make suggestions in this respect".

51. **Mr. de Gouttes** endorsed the proposal to establish the working group but hoped that it would be open to all members of the Committee. Experts who wished to do so must be free to make suggestions within the working group since deciding on measures relating to early-warning and urgent procedures was one of the most delicate and sensitive activities of the Committee.

52. **The Chairperson** said that, as he understood it, the observation made by Mr. de Gouttes did not give rise to objections. He therefore proposed that the five members of the working group should begin their work as soon as possible with a view to deciding which cases should be considered by the Committee immediately.

53. *It was so decided.*

Organizational and other matters (*continued*)

Organization of a thematic debate on the prevention of genocide

54. **The Chairperson** said that he had invited Mr. Juan Méndez, Special Adviser to the United Nations Secretary-General on the Prevention of Genocide, to participate in a thematic debate that the Committee might wish to hold on that topic in March 2005. The aim of the debate would not be to adopt a general recommendation, but to define certain aspects of genocide prevention in such a way that the Committee would be able to predict genocides and take action in time.

55. In the absence of any objection, the Chairperson took it that the Committee wished to approve the proposal to hold a thematic debate on the prevention of genocide, at its sixty-sixth session, in March 2005.

56. *It was so decided.*

The meeting rose at 6 p.m.