



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
8 December 2009
English
Original: French

Committee on the Elimination of Racial Discrimination
Seventy-fifth session

Summary record of the 1939th meeting

Held at the Palais Wilson, Geneva, on Thursday, 6 August 2009, at 10 a.m.

Chairperson: Ms. Dah

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The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 5) *(continued)*

Seventeenth to nineteenth periodic reports of Poland (continued) (CERD/C/POL/19; HRI/CORE/POL/2009; list of issues, document without symbol distributed in the meeting in English only)

1. *At the invitation of the Chairperson, the members of the delegation of Poland took places at the Committee table.*
2. **Mr. Rzemieniewski** (Poland) said that the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language defined members of a national minority as individuals who lived on Polish territory, had long, lasting and solid ties with Poland (their ancestors must have lived in Poland for at least 100 years), presented specific ethnic, cultural, religious and linguistic characteristics, were in sufficient numbers and were determined to maintain the characteristics that made up their identity, such as culture, traditions, religion and language. In Poland, a national minority, unlike an ethnic minority, must also identify with a nation organized in the framework of an existing State.
3. Poland made no distinction between the rights of national and ethnic minorities and that the only differences related to questions of terminology. In Poland there was only one regional language, Kashubian (CERD/C/POL/19, para. 227), recognized as such under the European Charter for Regional or Minority Languages. That language, close to Polish and long thought of as a dialect, was legally protected by the State as a regional language. The Kashubians were deeply attached to their language and the number of schools in which it was taught had greatly increased in past years. Poland had two private radio stations, one Belarusian and the other Kashubian.
4. In the past, national and ethnic minorities had made up some 30 to 50 per cent of the Polish population. As a result of border changes and the extermination of Roma people and Jews by the Nazi State during the Second World War, minorities had represented, for a time, only a very small number of people. It was true that the figures showed a drop in the number of people belonging to minorities but the number of minorities itself, 13, had not changed.
5. In reply to Mr. Avtonomov, who had asked why, according to the national census of 2002 (para. 82), there were 43 Karaims, when data from the 1980s suggested there had been approximately 100, Mr. Rzemieniewski said that the 2002 census had, for the first time, included a direct question on membership of an ethnic minority. This had provided a more accurate count of people belonging to that minority. Indeed, some minorities tended to assimilate very quickly, which was one reason why the Polish Government was trying to contain the problem by lending them legal protection. That tendency did not apply to the Karaims, a highly dynamic, well-educated minority with a high percentage of graduates. There had been no change in the make-up of the Karaite community over the past years.
6. With regard to the involvement of representatives of national and ethnic minorities in public life, he said that Polish electoral legislation was among the few in the world that allowed members of national minorities to vote in presidential elections, elections to the lower house and senate, municipal and district council elections, as well as direct elections for municipal officials and city and town mayors. They also voted in national and local referendums. Ethnic parties were not banned but simply did not exist in Poland.
7. With regard to the activities of ethnic communities in local government bodies, he said that the Belarusian minority had a national electoral committee that was highly successful in the region where that minority had a major presence. Members of minorities

had access to public services, voted in referendums and had the same rights as Poles. In addition, regional and minority languages could be used in dealings with the public administration where those minorities represented at least 25 per cent of the population of a given municipality or region.

8. **Ms. Ploszajska** (Poland) said that minority languages were considered an asset in Poland, which was why the State had given them legal protection, especially in the field of education. Article 35 of the Constitution stipulated that members of national or ethnic minorities could learn and study in their mother tongue. Moreover, article 17 of the Act on National and Ethnic Minorities and Regional Language enshrined the right of people belonging to minorities to learn their mother tongue in courses in that language. That law also stipulated that schools and public institutions must enable students to maintain their national, ethnic, linguistic and religious identity, in particular their language, history and culture.

9. In Poland, some schools taught in the languages of minority groups while others, such as bilingual schools, offered complementary courses in minority languages. Classes held in a minority language were organized with a minimum of 7 pupils in primary and lower secondary schools and with at least 14 pupils in high school. The public administration was obliged to provide school textbooks in the minority languages concerned. In general, they were written by the minorities but financed by the relevant municipality. The State paid a subsidy to those schools that made an effort to preserve a language. In addition, since 2004, parents could request that their children sit primary and secondary school examinations in a minority language.

10. With regard to the importance of minority languages in school curricula, a private foundation financed two schools in which classes were given in Hebrew. The Czech minority had also requested that their language be introduced as a teaching language in kindergarten and at university, and this was now the case. However, there were no teaching programmes in the languages of the Tatar and Karaite minorities, which had shown no interest in such programmes. As for Russian, it was still studied as a foreign language when in fact it would be easy to find Russian-speaking teachers, given the large number of Russian speakers in the country.

11. Because of the diversity of pupils' ethnic and national origins, they were exposed to a multicultural environment from primary school on. From the start of the new school year in 2009, courses aimed at promoting the cultural heritage of the country's various minorities would be given in schools. Moreover, the Joint Commission of Government and National and Ethnic Minorities was working with various ministries and the relevant local authority services on strategy documents in favour of the Lithuanian and German minorities, with a view to examining more closely their situation and working out directives to improve their living conditions. The long-term aim was to do the same for all the country's minorities.

12. The language of the Roma people was an oral language with several dialects. In 2008, the Council of Europe had launched a programme aimed at codifying it and, in that context, a special team had been assembled, made up of members of various Roma communities as well as the Ministry of National Education. That team had put together school textbooks in the Polish Roma language, which had been distributed free of charge to Roma pupils. Roma parents were initially unwilling to have their children enrolled in mainstream schools, as they feared they would lose their cultural identity and language. In a pilot project, a kindergarten run by members of a Roma community had been set up to take in those children, as well as a private school subsidized by the State.

13. **Mr. Rzemieniewski** (Poland) said that the programme for the Roma community in Poland laid emphasis on education and improving the school performance of children of

that minority. It provided for Roma teaching assistants and support teachers specialized in the particular needs of Roma pupils. They also acted as intermediaries between families and teachers, made sure the children attended school and were better placed to understand their difficulties since they spoke their language. About 100 Roma pupils had received study grants, which the Ministry of National Education hoped would help show members of that community the benefits of education, which was the only path to success in the modern labour market. Those measures were bearing fruit, as demonstrated by the fact that since their introduction the number of Roma children in school had risen significantly.

14. The idea of classes exclusively for Roma pupils, adopted by most European countries to facilitate the schooling of children from that community, had been rejected as harmful, since they tended to isolate the children from the rest of the populace and, for linguistic reasons, made it difficult for them to continue their studies in classes attended by Poles. The Ministry of National Education had prohibited the creation of any new such classes and was gradually closing most of those already in place. Fewer than 100 pupils attended such classes, in those regions where Roma communities were most concentrated, and it was planned that all Roma children would enter the mainstream education system and study alongside other Polish pupils by the start of the school year in September 2010.

15. A new problem concerning the education of young Polish Roma people had, however, emerged. Some of those who had migrated with their families to Scandinavian countries or the British Isles, where they had not attended school, were now returning to Poland with insufficient schooling to enter mainstream education establishments. The relevant authorities would need to find a way of enabling them to catch up without creating a new "Roma class".

16. To maintain the Roma language, which had suffered incursions from English and Polish, it had been necessary to codify it, if only to meet the needs and demands of the modern world and the younger generation. There were web pages and comic strips in the Roma language and various publications with legal texts concerning that community in a Roma legal language that had had to be invented. Finally, from 2010, Krakow University would offer its teaching students courses in the Roma language that would help them communicate with pupils from that community in the future.

17. **Ms. Radziszewska** (Poland) said schooling was free and obligatory from 6 to 15 years of age and that, from 2010, a pilot project would be launched to provide schooling for Roma children aged 3 to 6.

18. **Mr. Wydra** (Poland) said there was nothing to prevent a member of the Roma community joining the police but that, at the time, there were none in the force. That did not mean the police were indifferent to the plight of the Roma people. On the contrary, experienced police officers who had won their confidence looked after their security and were on the watch for any sign of discrimination or intolerance shown towards them.

19. Ethnic profiling was against the law and police officers suspected of it had to answer for their acts. Indeed, the police code of ethics required officers to act impartially and disregard racial, religious, political or other considerations linked to people's ethnic origins when carrying out their duties. Anyone believing their rights in this regard had been violated could make a complaint to the police or approach the Ombudsman, who acted independently. Proven abuses of power by members of the forces of law and order were systematically the subject of disciplinary action.

20. There had been an anti-discrimination campaign within the police force and officers received training to prevent any incitement to racial hatred or xenophobia, as well as discriminatory behaviour resulting from the racial or ethnic origin, sex or sexual orientation of a victim.

21. **Ms. Glowaka-Mazur** (Poland) said the number of complaints from the Roma community over denial of access to basic services was low. She listed several examples of shopkeepers refusing to allow Roma people to enter their establishments. The Ministry of the Interior had always intervened in such cases by appointing a mediator who helped settle those essentially private matters. In such cases, the Roma people had always received compensation.

22. **Ms. Gorzyska** (Poland) said that, under article 91 of the Constitution, the international instruments were part of the domestic legal order and directly applicable. The Constitution also stipulated that the Republic of Poland respect international law. Given that Poland had been a member of the European Union (EU) since 2004, all EU conventions were part of its domestic legal order. The international instruments took precedence over domestic legislation. Since June 2007, Poland had drawn up a list of all court rulings, which showed that, in fact, no court had made reference to the International Convention on the Elimination of All Forms of Racial Discrimination in its judgements. It was, however, quite possible that the courts had failed to report all their rulings. While the courts did not invoke that Convention, they often invoked the European Convention on Human Rights. Poland realized the importance of apprising judges of the content of the international instruments concerning racial discrimination so that they might consult them more. Racially motivated offences and crimes were systematically brought to court. Under article 118 of the Criminal Code, anyone committing a crime of racism leading to the death of the victim was punished with a prison term of from 12 to 25 years. Article 256 of the Criminal Code outlawed the public promotion of fascist and other totalitarian State systems, as well as inciting hatred on the basis of ethnic or racial differences. Article 257 penalized publicly insulting people for their national, ethnic, racial or religious affiliation. Finally, racist motives for a crime were considered an aggravating circumstance.

23. **Ms. Radziszewska** (Poland) said an amendment to article 256 of the Criminal Code was planned to penalize Nazi propaganda websites. With regard to publicizing the Convention within the judicial system, the EU had made funds available for Poland to train magistrates and make them more aware of human rights and racial discrimination issues.

24. **Ms. Petryna** (Poland) said the number of cases of racially motivated offences and crimes brought to court had increased greatly since 2008. That was largely due to the greater public awareness of racism and the fight against racial discrimination, and to the creation of efficient mechanisms for bringing charges and better detecting that kind of crime. There had also been a rise in cases relating to the publication of racist material on the Internet. Several factors lay behind this phenomenon, including the steep rise in the number of people surfing the Web and improved police surveillance of websites. Regrettably, many such cases did not lead to convictions. Frequently it was very difficult to identify those responsible, with many servers located on the territory of other States where the defence of freedom of speech meant that no measures could be taken against them. With regard to organizations that indulged in xenophobic and racist activities, the prosecution had carried out numerous inquiries in line with the measures established in the 2004–2009 National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance. That programme made provision for such organizations to lose their legal status. That had been attempted in various cases but it was often hard to gather proof of such organizations' racist activities and the only way to disband them was to obtain the conviction of their founding members.

25. Attacks on foreigners had also risen and the victims were mostly of African origin. Again, inquiries had been made into all these cases and had led to convictions. With regard to racism in sport, those responsible, if found, were also arrested and charged. At the time, four football fans had been convicted of making racist insults in stadiums.

26. **Ms. Zemanek** (Poland) took up allegations by various NGOs that Chechens could not obtain temporary residence permits. In general, Chechens had no trouble obtaining refugee status. Those who could not usually received a temporary residence permit, given the risks they ran if they returned to their country of origin. In May 2008, Poland had moved to implement European Union Directive 2004/83/EC on minimum standards for the qualification of third country nationals or stateless persons as refugees or as persons who, for other reasons, needed international protection. That meant that the Chechens could request extra protection from the Polish authorities. Indeed, they constituted the largest foreign group benefiting from protection in Poland. Any refusal to grant refugee status or subsidiary protection could be appealed against.

27. Polish language classes were offered free of charge in all refugee centres and people granted refugee status were obliged to attend such courses for 12 months. Schooling was obligatory for the children of refugees, like other children, until the age of 15, regardless of the child's legal status or nationality. Where children dropped out of school, the relevant education authorities asked social workers to meet the parents of refugee children and others who dropped out of school. It was, however, impossible to take them from their homes to ensure they went to school.

28. Referring to the right of asylum-seekers to State aid, in May 2008, Poland had implemented European Council Directive 2004/83, which aimed at eliminating discrimination in the area of subsidiary protection. All those who received refugee status had the right to benefit from State aid and integration programmes.

29. **Ms. Ploszajska** (Poland) said Poland's education law guaranteed foreign children the same access to education as Polish children. School education was free, even for children who had already reached 16 years of age but had not completed their mandatory schooling. That right was extended to pupils who had completed their mandatory schooling but wished to continue their studies. The main novelty was the establishment of that right for children of refugees and asylum-seekers, as well as the option offered, as in the case of Roma children, to attend courses in the language of their home countries.

30. **Ms. Przygucka** (Poland) said, with regard to access to health care, that foreigners with refugee status received a State subsidy to pay their health insurance premiums and that those who requested refugee status had the same access to health care as people who were fully insured. With regard to HIV/AIDS testing, the Office for Foreigners organized free, anonymous and voluntary testing. Refusal to be tested in no way influenced the appraisal of a foreigner's asylum request. The tests were funded entirely by the State budget, as was the antiretroviral treatment in case of illness. Moreover, measures had been taken to increase awareness of foreign cultures during medical studies, and to combat prejudice against people of other racial or ethnic backgrounds.

31. **Mr. Rapacki** (Poland), answering a question from Mr. Amir on allegations of the presence of secret CIA prisons in Poland to which terrorism suspects had been transferred, said the results of an inquiry into those allegations had been presented to the relevant judicial authorities in Warsaw in April 2009, and that the matter had been classified as a military secret. For the moment, the case remained confidential as proceedings were still under way. Once they were complete and conclusions had been reached, any necessary or requested information would be presented to international bodies.

32. **Mr. Thornberry** said discrimination on the basis of language was often the poor relation when discrimination was discussed, but language held a key place among the basic tools of human rights. It was very difficult to revive a language that had fallen into disuse but one efficient way of doing so could be through the written language. Either way, it would be well to preserve Poland's considerable linguistic heritage. On another note, the non-governmental organization Save the Children had concluded that total immersion in the

host country's language from the time of arrival in that country was not as efficient as beginning schooling in the child's mother tongue and gradually learning the language of the host country. This related not only to the Roma language but was a more general observation.

33. **Mr. de Gouttes** said the difficulty of proving cases of racial discrimination was common to all countries. However, he asked if Polish law provided for the reduction or reversal of the burden of proof in civil proceedings, for example in discrimination cases involving the workplace or housing. Moreover, he wanted to know whether Polish law permitted "testing", used in a growing number of countries, to reveal discriminatory attitudes on the part of managers of restaurants and other public places, job agencies, estate agents and the like.

34. **Ms. Radziszewka** (Poland) said that, with regard to discrimination in the labour market, a European Union directive forbade discrimination in the workplace on the basis of sex, age or national origin, and that the provisions of that directive had been incorporated into Polish law. There could be no discrimination in Poland because of race or ethnic origin. All citizens had equal rights in that respect and could, when their rights were violated, take the matter to the courts or the Ombudsman, the highest human rights authority in Poland for the past 20 years.

35. **Ms. Ksieniewicz** (Poland) said that other directives also banned discrimination in the workplace and provided the general framework of equality in the matter of employment and of the sexes. It was also one of the principles of the Labour Code. All employees were protected and certain groups enjoyed special protection, such as women in respect of reproductive health.

36. **Mr. Amir** (Rapporteur for Poland), presenting the preliminary comments after discussion with the delegation, said that no one authority dealt with the issue of discrimination in Poland. However, the creation of the institution run by the head of the Polish delegation demonstrated a new awareness that should bring changes in attitudes. The delegation had revealed the passing of new laws to fight racism and racial discrimination and, from that point of view, the amendment to the Criminal Code was indeed a deterrent. Mr. Amir was equally pleased with the rare and positive stance of the Polish Football Association, which had backed government directives on fighting racism in sport and advocated the raising of fans' awareness of the issue. He saw the racism conference planned for October 2009 in Poland as equally positive and noted everything that the delegation had said on the subject of the rights of national and ethnic minorities and regional languages. He welcomed news that the Kashubian community was protected by the State, particularly in the field of education and with the planned publication of textbooks in their language with State aid. With regard to the refusal by any Roma people to join the police force, in spite of the State's encouragement for them to do so, he recommended that the reasons for that refusal be examined later as part of the Committee's work. In conclusion, he welcomed with satisfaction the outcome of the consideration of the report of Poland. The delegation's ability to answer all the questions submitted to it demonstrated clear progress in the effort to combat racism in that country.

37. **The Chairperson** joined Mr. Amir in thanking the delegation and commended the high quality and productive dialogue during the consideration of the seventeenth to nineteenth periodic reports of Poland.

The meeting rose at 1.50 p.m.