



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined initial and second to ninth periodic reports of Benin*

1. The Committee considered the combined initial and second to ninth periodic reports of Benin¹ at its 2895th and 2896th meetings,² held on 9 and 10 August 2022. At its 2918th meeting, held on 25 August 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission, albeit delayed, of the combined initial and second to ninth periodic reports of the State party. The Committee welcomes the constructive dialogue with the State party's high-level delegation and wishes to thank the delegation for the detailed information it provided during the consideration of the reports.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional measures taken by the State party:

(a) Act No. 2006-04 of 10 April 2006 on Conditions for the Movement of Minors and Enforcement Action against Child Trafficking in the Republic of Benin;

(b) Act No. 2015-07 of 20 March 2015 on the Establishment of the Information and Communication Code of the Republic of Benin, which criminalizes acts of hate speech, including those that incite hatred and violence;

(c) Act No. 2012-36 of 15 February 2013 on the Establishment of the Benin Human Rights Commission.

4. The Committee also welcomes the fact that the State party has ratified or acceded to all core human rights treaties and their protocols, as well as the main regional instruments.

C. Concerns and recommendations

Data collection

5. The Committee takes note of the demographic information provided by the State party on the distribution of the different ethnic groups and foreign populations. However, it regrets the lack of specific information on asylum-seekers, refugees and stateless persons. The Committee also finds it regrettable that the data provided are not up-to-date or disaggregated and preclude it from carrying out an analysis of the socioeconomic situation of the different

* Adopted by the Committee at its 107th session (8–30 August 2022).

¹ CERD/C/BEN/1-9.

² See CERD/C/SR.2895 and CERD/C/SR.2896.



groups; furthermore, these data preclude the Committee from comprehensively assessing the enjoyment of the rights recognized in the Convention, such as the rights to housing, education, employment and health care, by different ethnic groups (arts. 1 and 2).

6. The Committee recommends that the State party produce statistical data, disaggregated by sex and age, on the socioeconomic situation of ethnic groups and foreign nationals, including asylum-seekers, refugees and stateless persons, and on their access to education, employment, health care and housing and their representation in public and political life, where applicable, with a view to creating an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention.

Definition of racial discrimination

7. The Committee takes note of the different laws prohibiting racial discrimination, as well as article 26 of the Constitution (amended by Act No. 2019-40 of 7 November 2019), which guarantees equality before the law regardless of “race”. However, it remains concerned that these provisions do not contain a harmonized and comprehensive definition of racial discrimination that incorporates all the grounds provided for in article 1 of the Convention (arts. 1 and 2).

8. The Committee recommends that the State party adopt a comprehensive anti-discrimination law that includes a definition of racial discrimination consistent with article 1 of the Convention and that explicitly prohibits direct and indirect discrimination in the public and private spheres.

Domestic application of the Convention

9. The Committee takes note of article 147 of the Constitution, according to which “duly ratified treaties and agreements shall, upon publication, take precedence over domestic legislation, provided that those treaties and agreements are reciprocally applied”. However, it is concerned about the lack of examples of cases in which the provisions of the Convention have been invoked before domestic courts (art. 2).

10. The Committee invites the State party to take appropriate measures, such as training, to ensure that judges, prosecutors, lawyers and law enforcement officials have sufficient knowledge of the Convention so that they may invoke or apply its provisions in relevant cases. It requests the State party to include, in its next periodic report, specific examples of the application of the Convention by domestic courts.

National human rights institution

11. The Committee notes that, despite a considerable delay, the new Benin Human Rights Commission was established in 2019, in accordance with Act No. 2012-36 of 15 February 2013. It welcomes the fact that the Global Alliance of National Human Rights Institutions granted it category A status in March 2022. However, the Committee finds it regrettable that the Commission still does not have the human and financial resources it needs to carry out its mandate effectively, and that the recommendations made by the Alliance regarding the need to strengthen the Commission’s internal procedures in order to guarantee its independence have not yet been acted upon. The Committee also regrets that no information has been provided on the Commission’s activities to address racial discrimination (art. 2).

12. The Committee recommends that the State party take up the recommendations issued by the Global Alliance of National Human Rights Institutions in March 2022 relating to the adoption of additional measures to ensure that the Benin Human Rights Commission can operate independently and has adequate funding to carry out its mandate effectively, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It also invites the State party to provide information, in its next periodic report, on the Commission’s activities to address racial discrimination.

Complaints of racial discrimination and remedies

13. The Committee notes with concern that, according to the information provided by the State party, no complaints of racial discrimination, racist hate speech, racist hate crimes or incitement to racial hatred were submitted to the domestic courts, the Benin Human Rights Commission or the Office of the Ombudsman during the reporting period (arts. 2 and 6).

14. **The Committee recalls that, in line with its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, a lack of complaints, prosecutions and convictions relating to acts of racial discrimination does not mean there is an absence of racial discrimination in a State party. The absence of complaints may instead signify the victims' lack of familiarity with the judicial recourse available to them, a lack of trust in the legal system or a fear of reprisals. The Committee recommends that the State party redouble its efforts to provide the general public with information on racial discrimination and on the judicial and non-judicial remedies available to it. It requests the State party to include, in its next periodic report, information on the steps taken in this regard, including statistics on complaints filed with all competent authorities and their outcomes. This information should cover the number and types of complaints filed, the investigations conducted, the prosecutions initiated, the convictions and penalties handed down, and the redress provided to victims, broken down by the type of remedy pursued.**

Racist hate crimes and hate speech

15. The Committee takes note of the information provided by the State party in its report³ on the enactment of a range of laws prohibiting hate crimes and hate speech. It is nevertheless concerned by press reports about the alleged use of xenophobic, sectarian and ethnocentric language by certain political actors during the 2016 presidential election campaign, which were not addressed in the State party's periodic report. The Committee is also concerned about the lack of information on the investigations carried out, prosecutions brought and convictions handed down by the courts in relation to these acts (arts. 2, 4 and 6).

16. **Recalling its general recommendations No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:**

(a) **Publicly condemn any racist or other type of hate speech used by politicians or public figures, especially during election campaigns;**

(b) **Take effective measures to encourage the reporting of racist hate speech and hate crimes, make it easier to file complaints, conduct investigations, and prosecute and, where appropriate, impose adequate sentences on perpetrators, and collect data on these different elements and include them in its next periodic report;**

(c) **Develop and conduct training programmes on hate crimes and hate speech for police officers, prosecutors, judges and other law enforcement officials, including methods for identifying, recording and investigating racist hate crimes and instances of racist hate speech and for prosecuting the perpetrators.**

National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance

17. The Committee finds it regrettable that the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Intolerance, adopted in October 2014, has only been partially implemented owing to a lack of funding. However, it notes with interest the information provided during the dialogue on several initiatives undertaken within the framework of the Plan, including initiatives to disseminate information to the population in the country's national languages, but finds it regrettable that no assessment was carried out, thus preventing the Committee from analysing their impact (art. 2).

³ CERD/C/BEN/1-9, paras. 84–90.

18. **The Committee encourages the State party to assess the implementation of the 2014 National Action Plan and to consider adopting a follow-up plan. It recommends that the State party ensure the involvement of all stakeholders in the process of developing a new national action plan to combat racism, racial discrimination, xenophobia and intolerance, including civil society actors, that it allocate adequate budgetary resources for its implementation and that it put in place a rigorous assessment system.**

Access to justice

19. The Committee notes that a bill on legal aid, intended to improve effective access to justice, is in the process of being adopted. It welcomes the information provided by the State party during the dialogue to the effect that this bill will not contain any discriminatory provisions and that, as a result, non-nationals will have access to legal aid on an equal footing with Beninese nationals. However, the Committee is concerned that the bill has not yet been adopted (arts. 5 and 6).

20. **The Committee encourages the State party to expedite the adoption of the bill on legal aid in order to ensure equal access to justice for victims of racial discrimination, ethnic minorities and non-nationals, and to:**

- (a) **Endow legal aid services with adequate financial and human resources;**
- (b) **Raise public awareness to ensure that legal aid is effectively available to all;**
- (c) **Bring the domestic courts closer to the regions where minority groups live, including by building the capacity of the court system in rural areas.**

Situation of indigenous peoples

21. The Committee is concerned about the State party's approach of defining indigenous peoples based solely on the fact that they were present in the country before other populations, without considering the criterion of self-determination laid down in the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. The Committee is also concerned that this approach risks perpetuating the marginalization of groups that identify as indigenous communities in Benin and exacerbating direct and indirect discrimination against them (arts. 1 and 5).

22. **Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee urges the State party to reconsider its approach and legally recognize the existence of indigenous populations in its territory on the basis of the principle of self-determination, and to conduct a census of them, providing data in that regard in its next periodic report. It recommends that the State party devise, within a specific time frame, a national strategy for indigenous peoples and put in place a comprehensive legal framework for them, with the effective and meaningful participation of indigenous peoples, as well as civil society organizations and the Benin Human Rights Commission, with a view to adopting special and practical measures to protect the rights of these populations.**

Transmission of nationality

23. While taking note of the information provided by the State party on the forthcoming adoption of a new nationality code, the Committee remains concerned that a Beninese woman is unable to transmit her Beninese nationality to a foreign spouse or to children born to a foreign father on an equal footing with Beninese men (arts. 2 and 5).

24. **The Committee recommends that the State party expedite the adoption of the new nationality code in order to put an end to discrimination against Beninese women with regard to the transmission of nationality.**

Stateless persons

25. The Committee notes the State party's efforts to address the problem of statelessness, in particular the launch of an identification programme in 2017 under which identity documents have been provided to a large number of persons, and the intention to incorporate the *jus soli* principle in respect of children of unknown nationality or parentage into the new nationality code, which is currently being drafted. However, it remains concerned about the situation of a large number of stateless persons living on Île aux Oiseaux, over which Benin has exercised jurisdiction since 2005, when the International Court of Justice ruled on a border dispute between Benin and Niger, and about the fact that a solution has still not been found (arts. 2 and 5). While welcoming the adoption of the National Action Plan against Statelessness in 2014, the Committee regrets the lack of information provided by the State party on its implementation and any assessments conducted.

26. The Committee recommends that the State party expedite and improve access to birth registration within the framework of the identification programme launched in 2017; fulfil its commitment to allow all inhabitants of Île aux Oiseaux wishing to apply for Beninese nationality to do so; and expedite the adoption of the new nationality code so that the *jus soli* principle may be applied in respect of children of unknown nationality or parentage. It also recommends that the State party provide, in its next periodic report, more detailed information on the implementation and assessment of the National Action Plan against Statelessness.

Asylum-seekers and refugees

27. The Committee notes the information provided by the State party's delegation on the efforts made to integrate refugees and asylum-seekers. It regrets, however, the lack of information on the conditions for gaining access to universal health insurance, the conditions that persons with refugee status must meet to gain access to naturalization and the adoption of the bill on the status of refugees and stateless persons in Benin, which was submitted to the Beninese parliament in February 2021 (arts. 2 and 5).

28. The Committee recommends that the State party expedite the adoption of the bill on the status of refugees and stateless persons in Benin and pursue its asylum policy in a manner that promotes integration and non-discrimination. It invites the State party to provide comprehensive and up-to-date information on reception conditions for asylum-seekers and refugees in its next periodic report.

Situation of persons with albinism

29. While noting the information provided by the State party's delegation during the dialogue, the Committee is concerned about reports of discrimination and stigmatization in respect of persons with albinism in various areas of daily life, as well as extreme physical attacks against them, often motivated by witchcraft-related beliefs and the colour of their skin. The Committee also notes with concern that these persons are victims of passive discrimination linked to the failure to take their visual impairment into account (arts. 2, 5, 6 and 7).

30. The Committee recommends that the State party guarantee, as a matter of priority, the right to life of persons with albinism. It urges the State party to adopt more effective measures to protect persons with albinism from violence, abductions and discrimination. The Committee also recommends that the State party ensure that persons with albinism have equal access to education, health care and employment. The Committee recommends that the State party adopt a comprehensive strategy, building on the recommendations made in the Report of the Independent Expert on the enjoyment of human rights by persons with albinism on the Regional Action Plan on Albinism in Africa (2017–2021).⁴ In this context, the Committee recommends that the State party conduct full and thorough investigations into all reported cases of attacks against persons with albinism, including cases identified by civil society organizations,

⁴ [A/HRC/37/57/Add.3](#).

end impunity for the perpetrators and conduct public education campaigns on albinism in order to combat prejudices and misconceptions about it.

Trafficking in persons

31. The Committee notes the various measures taken by the State party to combat trafficking in persons, including the signing of bilateral agreements with countries in the subregion and interministerial actions to combat the specific problem of the exploitation of Beninese migrant workers in the Gulf States. It remains concerned, however, about the persistence of the trafficking abroad of Beninese children and migrant workers, sometimes in conditions akin to slavery (arts. 2, 5, 6 and 7).

32. The Committee recommends that the State party step up its efforts to combat trafficking in persons, in particular by ensuring effective enforcement of its anti-trafficking laws and other administrative measures, investigate cases of trafficking and prosecute traffickers, make it easier to report trafficking and adequately sentence perpetrators. It also recommends that the State party continue its efforts to combat the ill-treatment of Beninese migrant workers employed abroad, in cooperation with their States of residence. It invites the State party to provide, in its next periodic report, data on trafficking in persons, including information on cases tried by the courts and the remedies available to victims.

Language policy

33. The Committee takes note of the State party's approach to language policy in education, based on article 8 of Act No. 2003-17 of 11 November 2003 on National Education Policy, which advocates a pragmatic approach to the country's ethnolinguistic diversity by providing that education "is to be provided primarily in French, in English and in national languages". However, it is concerned about the criteria used to select the national languages used in the Beninese school system and the fact that, as a result, it is not possible to assess the risk of discrimination against ethnic groups whose language is not recognized as a national language and against Beninese nationals who do not speak French (arts. 2 and 5).

34. The Committee recommends that the State party continue to realize its stated ambition by granting access to education in all national languages as soon as possible, while taking into account human and financial resource constraints. It encourages the State party to carry out this reform with the utmost transparency, involving all stakeholders, including those from civil society. The Committee also encourages the State party to take into account the significant proportion of the population that does not speak French in designing and implementing public policies or services, as it is already doing in a number of areas, in order to guarantee access for all without discrimination.

Education on human rights and remembrance of the transatlantic slave trade

35. While noting the different measures to promote education on remembrance of the transatlantic slave trade described by the State party's delegation during the dialogue, including plans to build the International Museum of Memory and Slavery in Ouidah and to use, for this purpose, cultural property returned by the former colonizing countries and other countries, the Committee finds it regrettable that more detailed information on this subject was not provided in the State party's report. It also finds it regrettable that more detailed information was not provided on the measures taken to promote human rights education among the population at large and in schools, and to promote understanding and tolerance among the different groups living in the territory as a means of combating prejudice and stigmatization (art. 7).

36. The Committee recommends that the State party provide, in its next periodic report, detailed information on the content and implementation of the package of measures envisaged to promote education on remembrance of the transatlantic slave trade and the impact of these measures in terms of awareness-raising, reconciliation and national cohesion. It also recommends that the State party continue and strengthen

human rights education in general, both in schools and among the population at large, and provide information on these measures and their impact in its next periodic report.

D. Other recommendations

Ratification of other treaties

37. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization (ILO). The Committee encourages the State party to accede to the individual complaints procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and those established pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Lastly, the Committee recommends that the State party consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Amendment to article 8 of the Convention

38. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Declaration under article 14 of the Convention

39. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.**

Follow-up to the Durban Declaration and Programme of Action

40. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

41. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

42. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human**

rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

43. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly disseminated to all State bodies entrusted with the implementation of the Convention, including local authorities. The Committee also recommends that these documents be made available on the website of the Ministry of Foreign Affairs in the official language and other commonly used languages, as appropriate.

Common core document

44. The Committee encourages the State party to update its common core document, which dates from 1997, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.⁵ In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

45. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 16 (c) (racist hate crimes and hate speech), 18 (National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance) and 24 (transmission of nationality) above.

Paragraphs of particular importance

46. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12 (national human rights institution), 26 (stateless persons), 30 (situation of persons with albinism) and 36 (education on human rights and remembrance of the transatlantic slave trade) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

47. The Committee recommends that the State party submit its combined tenth to thirteenth periodic reports, as a single document, by 30 November 2026, taking into account the reporting guidelines adopted by the Committee during its seventy-first session⁶ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports and 42,400 words for the common core document.

⁵ HRI/GEN/2/Rev.6, chap. I.

⁶ CERD/C/2007/1.