



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1240th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 August 1997, at 3 p.m.

Chairman: Mr. BANTON

CONTENTS

PREVENTION OF RACIAL DISCRIMINATION, EARLY WARNING AND URGENT PROCEDURES
(continued)

Draft declaration concerning the Democratic Republic of the Congo

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Draft concluding observations concerning the twelfth periodic report
of Sweden

Draft concluding observations concerning the eleventh to fourteenth
periodic reports of Argentina

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PREVENTION OF RACIAL DISCRIMINATION, EARLY WARNING AND URGENT PROCEDURES
(agenda item 4) (continued)

Draft declaration concerning the Democratic Republic of the Congo (document distributed at the meeting in English only: CERD/C/51/Misc.39/Rev.1)

1. The CHAIRMAN invited the Committee to consider the document paragraph by paragraph.

Paragraph 1

2. Mr. WOLFRUM stressed that the document under consideration was not so much a set of draft concluding observations as a draft declaration or set of observations. Some amendments would have to be made to it. He proposed that paragraph 1 should be amended to read: "The concluding observations adopted by the Committee on 21 August 1996 ...".

3. Paragraph 1, as amended, was adopted.

Paragraph 2

4. Mr. WOLFRUM pointed out a typographical error in the quotation in the final sentence; the correct version was "reliable indications that persons". At Mr. Shahi's request, he proposed that the first sentence of the paragraph should be amended to read: "The Committee is disturbed by the reports of massacres and other great human rights violations, including", and the words "and crimes against humanity" should be inserted after the words "humanitarian law" at the end of the section quoted from paragraph 95 of the joint mission's report.

5. Following an exchange of views in which Mr. ABOUL-NASR, Mr. WOLFRUM, Mr. DIACONU and Mr. SHAHI took part, the CHAIRMAN invited the Committee to consider separately the two amendments proposed by Mr. Wolfrum on behalf of Mr. Shahi.

6. It was so decided.

Proposed amendment to the first sentence of paragraph 2

7. The proposed amendment to the first sentence of paragraph 2 was adopted.

Proposed amendment to the last sentence of paragraph 2

8. Mr. DIACONU, Mr. ABOUL-NASR and Mr. SHERIFIS said they were willing to agree to the proposed amendment provided the precise terms were taken from the report of the joint mission and were placed in square brackets.

9. Mr. WOLFRUM confirmed that paragraph 95 of the report contained the following sentence: "Such crimes seem to be sufficiently massive and systematic to be characterized as crimes against humanity".

10. The proposed amendment to the last sentence of paragraph 2 was adopted.

11. Mr. GARVALOV pointed out that in the fifth line of the paragraph "Eastern Zaire" should be replaced by "eastern part of Zaire", even though the next mention of that area, three lines further down, could not be amended as it was a quotation.

12. The amendment was adopted.

13. Paragraph 2, as orally amended, was adopted.

Paragraph 3

14. Mr. SHAHI expressed surprise that the paragraph did not mention the 140,000 or so refugees who had gone missing, according to the report of the joint mission (A/51/942, para. 43).

15. Mr. WOLFRUM thought that it was dangerous to refer to numbers without being certain of their accuracy. The Office of the United Nations High Commissioner for Refugees had in fact estimated the number of missing at 240,000. It would, in his view, be preferable to use a more vague expression such as "large numbers".

16. The CHAIRMAN proposed that the wording of paragraph 3 should be amended to read: "The Committee is alarmed about reports of the disappearance of very large numbers of refugees in the eastern part of the country and about reports of ongoing human rights violations".

17. Paragraph 3, as amended, was adopted.

Paragraph 4

18. In the light of observations made by Mr. ABOUL-NASR, Mr. WOLFRUM, Mr. SHAHI, Mr. GARVALOV and Mr. SHERIFIS, Mr. de GOUTTES proposed that paragraph 4 should be reworded to read: "Le Comité exprime le souhait que la nouvelle équipe d'enquête instituée par le Secrétaire général de l'Organisation des Nations Unies puisse agir efficacement et se félicite que le Gouvernement de la République démocratique du Congo ait accepté de coopérer avec cette équipe".

19. The CHAIRMAN read out the following English version of the text: "The Committee hopes that the new investigating team established by the Secretary-General of the United Nations may be able to act effectively and welcomes the readiness of the Democratic Republic of the Congo to cooperate with this team".

20. Paragraph 4, as amended, was adopted.

Paragraph 5

21. The CHAIRMAN said that the word "this" should be inserted after the word "discuss" in the third line of the paragraph.

22. Paragraph 5 was adopted with that drafting amendment.

23. The draft declaration of the Committee concerning the Democratic Republic of the Congo, as orally amended, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the twelfth periodic report of Sweden
(document distributed at the meeting in English only: CERD/C/51/Misc.23,
future CERD/C/304/Add.37, future CERD/C/51/CRP.1/Add.15)

24. Mr. YUTZIS drew the attention of Committee members to paragraph 7, which mentioned the new refugee legislation. He was particularly concerned about one category of refugees - those who had come in large numbers from Peru and from Bosnia and Herzegovina to request asylum in Sweden, and who could as members of minorities benefit from that legislation. He pointed out that paragraph 21 had been the subject of much comment; in his view, it was important to stress that the Samis should be able to use their language other than in private life, even if in Sweden they were less numerous than in other Nordic countries.

Paragraph 1

25. Paragraph 1 was adopted.

Paragraph 2

26. Mr. GARVALOV proposed that the adjective "competent", which was rather unusual, should be deleted before the word "delegation".

27. Paragraph 2, as amended, was adopted.

Paragraph 3

28. Paragraph 3 was adopted.

Paragraph 4

29. Mr. ABOUL-NASR proposed that the words "limited number" should be deleted.

30. Paragraph 4, as amended, was adopted.

Paragraph 5

31. Paragraph 5 was adopted.

Paragraph 6

32. Mr. ABOUL-NASR said he doubted whether it was necessary to mention among the positive aspects of the situation in Sweden the fact that the Act in question was ineffective.

33. Mr. GARVALOV proposed, in order to justify the paragraph's placement in the "Positive aspects" section, emphasizing the praiseworthy intention of the State party to review the Act. The wording should be amended to read:

"It is noted that the State party intends to review the Act against Ethnic Discrimination of 1994 because it is not having the desired effect".

34. Mr. SHERIFIS said he was not convinced that the new wording would cast a more favourable light on the Swedish Government's intentions.

35. The CHAIRMAN suggested that Mr. Garvalov's wording should be adopted, as it was well balanced.

36. It was so decided.

37. Paragraph 6, as amended, was adopted.

Paragraph 7

38. Mr. YUTZIS proposed that paragraph 7 should be replaced by the following text: "The Committee welcomes the adoption of a new law which covers not only persons who are within the 1951 Convention relating to the Status of Refugees, but also persons with a well-founded fear of the death penalty or who are subject to torture, and aliens in need of protection due to armed conflicts". He pointed out that, as the delegation had indicated, the Act in question had been adopted after Sweden had already prepared its twelfth report.

39. The CHAIRMAN considered that the Committee should not adopt that new wording without having before it the text of the Act concerned. He therefore suggested that the Committee should defer consideration of that paragraph.

40. It was so decided.

Paragraph 8

41. Mr. ABOUL-NASR considered that it was inappropriate for the Committee in its concluding observations to refer to the Swedish Co-ordinating Committee for the European Year against Racism. It was not the Committee's duty to take a position on activities of concern only to Europe.

42. Mr. SHAHI felt that it was not wrong for the Committee to welcome the creation of that committee as the Committee was concerned about the spread of xenophobia and racism in Europe.

43. Mr. GARVALOV, supported by Mr. de GOUTTES, said that the Council of Europe had launched the European Year against Racism as part of the Third Decade to Combat Racism and Racial Discrimination declared by the United Nations.

44. Mr. DIACONU recalled that the same problem had arisen during consideration of the draft concluding observations concerning Denmark, and that it had been resolved by adopting the following formula: "as well as the active participation of the State party in international efforts to combat racism".

45. The CHAIRMAN suggested that the Committee should use that wording in the case of Sweden.

46. It was so decided.

47. Paragraph 8, as amended, was adopted. Paragraph 9

48. Following an exchange of views between Mr. ABOUL-NASR, who thought the creation of a separate parliament for a minority group could hardly be considered a positive step, and Mr. WOLFRUM, Mr. YUTZIS, Mr. de GOUTTES and Mr. RECHETOV, who noted with satisfaction that the Samis, a group too small to be represented in the Swedish parliament, had the power to decide and manage their own affairs, the CHAIRMAN suggested that the Committee should adopt paragraph 9 as currently worded.

49. It was so decided.

50. Paragraph 9 was adopted.

Paragraph 10

51. Mr. GARVALOV said he was not sure that the wording of paragraph 10 was a faithful reflection of reality. He recalled that the Swedish Government had merely indicated in paragraph 8 of its periodic report that it had decided to appoint a committee to examine the question whether Sweden should ratify the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, and to study the procedures for their possible ratification. Since the State party had not yet taken a decision on that subject, it would no doubt be premature for the Committee to express satisfaction in that regard.

52. Mr. SHAHI agreed that it would be premature.

53. Mr. YUTZIS emphasized that the aim of paragraph 10 was to highlight the Swedish Government's initiative and, in so doing, urge it to ratify the European Charter and the Framework Convention.

54. Mr. GARVALOV pointed out that five member States of the Council of Europe had not ratified the Charter or the Framework Convention. To the best of his knowledge, the Committee had not congratulated those that had. He therefore saw no reason why the simple fact of having established a committee to consider possible ratification of those instruments should be considered as a positive aspect of the Swedish Government's activity.

55. Mr. ABOUL-NASR considered that the subject addressed in paragraph 10 fell within the purview of the European Union and that there was thus no reason to include the paragraph.

56. Mrs. ZOU believed that paragraph 10 should be deleted, as Sweden had not yet taken the decision to ratify the Charter and the Framework Convention. It was thus too early for the Committee to express satisfaction on that subject.

57. Mr. YUTZIS felt that if the decision was taken to delete the paragraph, it would be necessary to adopt another paragraph in which the Committee invited the Swedish Government to ratify the European Charter and the Framework Convention, since there was indeed a link between those instruments and the Convention.

58. Mr. DIACONU said he thought the matter was not particularly important, and that it was therefore not absolutely necessary to bring it up in the Committee's conclusions.

59. The CHAIRMAN suggested that paragraph 10 should be deleted.

60. Paragraph 10 was deleted.

Paragraph 11 (new paragraph 10)

61. Mr. RECHETOV proposed that a punctuation mark should be inserted after the words "municipal elections".

62. Paragraph 11 (new paragraph 10), as amended, was adopted.

Paragraph 12 (new paragraph 11)

63. Mr. RECHETOV proposed that at the end of the paragraph the words "which may be considered as exemplary" should be deleted.

64. Mr. WOLFRUM proposed that the words "well-devised" before "system of education" should be deleted.

65. Paragraph 12 (new paragraph 11), as amended, was adopted.

Paragraph 13 (new paragraph 12)

66. Mr. WOLFRUM pointed out that the Tornedal Finns and the Roma were indigenous peoples, and recalled that they quite rightly rejected being referred to as minorities. Since observations appropriate to the indigenous populations of Sweden appeared in other parts of the concluding observations, he did not think the paragraph was necessary.

67. Mr. DIACONU said he did not understand why the Committee should invite Sweden in particular to apply uniform criteria with regard to indigenous peoples. He too felt that the paragraph should be deleted.

68. Mr. SHERIFIS and the CHAIRMAN suggested that the paragraph should be deleted.

69. Paragraph 13 was deleted.

Paragraph 14 (new paragraph 12)

70. Mr. RECHETOV, supported by Mr. van BOVEN, said that the paragraph was ambiguous as it could be interpreted as meaning that the Committee took

exception to the research project concerning violence and counter-violence. It was the findings of that research project that the Committee found disturbing.

71. Mr. GARVALOV proposed that, to resolve the problem, the words "which started" should be replaced by "on the basis of".

72. Mr. ABOUL-NASR proposed that the beginning of the paragraph should express the idea that the Committee was concerned about the increase in racially motivated crimes.

73. The CHAIRMAN suggested that the existing paragraph should be replaced by the following text: "The Committee expresses concern that crimes with racial motives have increased, as found by a research project conducted by the National Council for Crime Prevention."

74. Paragraph 14 (new paragraph 12), as amended, was adopted.

Paragraph 15 (new paragraph 13)

75. Mr. ABOUL-NASR said he did not understand why the Committee should express concern about the fact that many Roma were dependent on social welfare benefits. Was it not normal that they should receive financial assistance to which they were entitled as unemployed people?

76. Mr. WOLFRUM explained that the aim of the text was to emphasize that the Roma could not find employment because of a lack of appropriate training and education, and thus had to rely on public assistance. That was the reason for concern.

77. In response to Mr. Aboul-Nasr's comment, Mr. van BOVEN proposed that the words "In addition" should be replaced by "As a result".

78. Paragraph 15 (new paragraph 13), as amended, was adopted.

Paragraph 16 (new paragraph 14)

79. Mr. GARVALOV said the two sentences in the paragraph should be linked, as they had the same purpose.

80. The CHAIRMAN suggested that the text should be replaced by: "Concern is expressed that existing legislation does not fully implement all components of article 4 of the Convention."

81. Paragraph 16 (new paragraph 14), as amended, was adopted.

Paragraph 17 (new paragraph 15)

82. Mr. ABOUL-NASR observed that the paragraph under consideration might appear to contradict paragraph 11 (new paragraph 10), in which the Committee noted with satisfaction that the Swedish Government gave non-nationals the right to vote and stand for election in municipal elections.

83. Mr. SHERIFIS recalled that the Swedish delegation had provided further information on the subject. It was thus clear that paragraphs 11 and 17 (new paragraphs 10 and 15) dealt with the same question from two different angles. He proposed that the word "aliens" should be replaced by "non-nationals".

84. Mr. SHAHI, noting that the conclusions were addressed to the State party, emphasized that the Committee could hardly hold the State party accountable for the fact that non-nationals did not take part in local elections, while the State itself had given them the right to do so. In such circumstances, the most the Committee could do would be to request that it encourage greater participation by non-nationals in local elections.

85. Mr. RECHETOV proposed that the two paragraphs should be combined with the following wording: "Non-nationals have the right to participate in municipal elections. Their participation is declining." He explained that that text would make it possible for the Committee to avoid expressing concern about the situation and to highlight the positive aspects, while steering clear of the somewhat laudatory tone of paragraph 11 (new paragraph 10).

86. Mr. WOLFRUM said that he was above all concerned about the obvious lack of interest in local elections among non-nationals. He believed that the Committee's concluding observations were addressed to them as well, and recalled that the Committee had included similar recommendations in its observations concerning the periodic report of Denmark. In his opinion, therefore, paragraph 11 (new paragraph 10) should remain unchanged as a sign of the Committee's satisfaction.

87. Mr. YUTZIS recalled that the State party had itself expressed concern and perplexity at the lack of interest among non-nationals in local elections. In his opinion, the Committee expressed its concern not only to the State party, but also to the non-nationals who did not exercise their right to vote.

88. The CHAIRMAN said that if his memory served him correctly, according to the explanations given by the State party, the composition of the non-national population had evolved over time. Unlike the first immigrants who had wanted to integrate and quickly requested naturalization, the later arrivals were mostly refugees who intended to return to their countries. Consequently, they were not so interested in local elections, especially since such elections often took place at the same time as national elections, in which they were not entitled to vote. With the situation thus clarified, the Chairman suggested that the Committee should adopt paragraph 17 (new paragraph 15), with the word "aliens" replaced by the word "non-nationals".

89. Paragraph 17 (new paragraph 15), as amended, was adopted.

Paragraphs 18 and 19 (new paragraphs 16 and 17)

90. Mrs. ZOU proposed that the two paragraphs, which dealt with very closely related subjects, should be combined in a new text with the following wording: "Concern is expressed about activities such as dissemination by various organizations in the State party of recorded music containing texts promoting hatred of minorities, based on ideas or theories of racial superiority."

91. Following an exchange of views in which Mr. YUTZIS, Mr. RECHETOV, and Mr. ABOUL-NASR took part, the CHAIRMAN suggested that the two paragraphs under consideration should be combined into a single text, to read: "Concern is also expressed at the activities based on ideas or theories of racial superiority of various organizations and individuals, and over the increasing dissemination of recorded music, the lyrics of which show hatred of minorities."

92. It was so decided.

93. Paragraphs 18 and 19 (new paragraph 16) were adopted.

Paragraph 20 (new paragraph 17)

94. Paragraph 20 (new paragraph 17) was adopted.

Paragraph 20 bis (new paragraph 18)

95. Mr. de GOUTTES proposed that paragraph 20 bis should be inserted after paragraph 20, with the following wording: "The Committee recommends that the State party should submit in its next report information on the number of complaints, judgements and awards of damages relating to acts of racism, in all their forms."

96. Paragraph 20 bis (new paragraph 18) was adopted.

Paragraph 21 (new paragraph 19)

97. Mr. DIACONU said that the Committee should specify what it meant by "public life". Did the terms encompass the courts, public bodies and parliament? He thought the Committee should not recommend that the State party take a measure amounting to the institution of bilingualism. Apart from the fact that its application would be extremely costly, such a recommendation could set a precedent and be considered as interference in the internal affairs of the State.

98. Mr. SHERIFIS proposed that the words "in public life" should be deleted.

99. Paragraph 21 (new paragraph 19), as amended, was adopted.

Paragraph 22 (new paragraph 20)

100. Mr. ABOUL-NASR considered that the Committee was going too far in recommending a policy of integration of immigrants, refugees and ethnic minorities. Did such groups themselves desire integration at all levels?

101. Mr. WOLFRUM thought it would be more judicious to refer to the integration of those groups in economic and social life.

102. Mr. SHAHI referred to paragraph 11 of Sweden's report, which stated that in that country integration was not synonymous with assimilation, but was aimed at providing equal opportunities. He proposed instead to recommend to the State party that it should attempt to ensure equality of opportunity.

103. Mr. GARVALOV pointed out that the report did not specify that integration was aimed at ensuring equal opportunity in the economic and social sense.

104. The CHAIRMAN suggested that the text of paragraph 22 should be amended to read: "The Committee recommends that the policy of integration promoting equality in economic and social life for immigrants, refugees and ethnic minorities be reinforced by appropriate legislative, administrative and other measures."

105. It was so decided.

106. Paragraph 22 (new paragraph 20), as amended, was adopted.

Paragraph 23 (new paragraph 21)

107. Mr. SHERIFIS proposed that the following text should be added at the end of the paragraph: "Furthermore, the twelfth periodic report should be widely disseminated, as well as the conclusions and recommendations adopted by the Committee thereon."

108. Paragraph 23 (new paragraph 21), as amended, was adopted.

Paragraph 23 bis

109. Mr. YUTZIS proposed that after paragraph 23 a new paragraph should be added, in which the Committee would recommend that Sweden should ratify the European Charter for Regional and Minority Languages and the Framework Convention for the Protection of National Minorities.

110. Mr. DIACONU pointed out that it was not customary for the Committee to recommend that States parties, which were sovereign entities, should ratify a particular international instrument, even if, as in the case in question, the sphere of application of the instruments concerned overlapped with that of the Convention.

111. Mr. van BOVEN agreed with Mr. Diaconu. At most, the Committee could welcome ratification by a State party of an international instrument which went along the same lines as the Convention.

112. Mr. YUTZIS begged to differ from Mr. van Boven and Mr. Diaconu. The proposed text was based on the fact that the Swedish Government had reported that it had set up a Committee to examine the question of ratification of those instruments.

113. Mr. GARVALOV felt it was clear from the report that the State party was merely considering the possibility of ratifying those instruments. It would thus be inappropriate to recommend that it should do so at the present time.

114. The proposal to add a paragraph 23 bis was rejected.

Paragraph 24 (new paragraph 22)

115. Paragraph 24 (new paragraph 22) was adopted.

116. The draft concluding observations of the Committee concerning the twelfth periodic report of Sweden, as orally amended, were adopted, with the exception of paragraph 7, consideration of which was deferred.

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina (document distributed at the meeting in French only: CERD/C/51/Misc.26, future CERD/C/304/Add.39, future CERD/C/CRP.1/Add.22)

117. The CHAIRMAN invited the Committee to consider the draft paragraph by paragraph, on the understanding that it might be necessary, in the light of the discussion, to revert to certain paragraphs which had already been adopted.

Paragraphs 1 and 2

118. Paragraphs 1 and 2 were adopted.

Paragraph 3

119. Mr. RECHETOV proposed that the word "autres" (others) should be deleted.

120. Paragraph 3, as amended, was adopted.

Paragraph 4

121. Paragraph 4 was adopted.

Paragraph 5

122. Mr. RECHETOV proposed that the word "très" (very) should be deleted.

123. Paragraph 5, as amended, was adopted.

Paragraph 6

124. Paragraph 6 was adopted.

Paragraph 7

125. Mr. de GOUTTES proposed that the bracketed references to articles of the Argentine Constitution should be deleted.

126. Paragraph 7, as amended, was adopted.

Paragraph 8

127. Paragraph 8 was adopted.

Paragraph 9

128. Mr. de GOUTTES pointed out that the paragraph took account of Mr. Diaconu's suggestions.

129. Paragraph 9 was adopted.

Paragraph 10

130. Mr. de GOUTTES said that the paragraph again took account of Mr. Diaconu's suggestions.

131. Mr. WOLFRUM proposed that the word "domaniales" (ancestral) should be deleted so as to make it clear that the lands in question were subject to a special legal regime.

132. Paragraph 10, as amended, was adopted.

Paragraph 11

133. Mr. RECHETOV observed that measures taken against Nazi criminals had no direct relation with the Convention and that it was perhaps inappropriate to mention them in the text.

134. Mr. de GOUTTES said that the paragraph reflected paragraph 27 of Argentina's periodic report.

135. Mr. ABOUL-NASR said he did not understand why the Committee should mention Nazism, as opposed to apartheid, in all draft concluding observations. He therefore had reservations about the paragraph.

136. Mr. van BOVEN considered that there were three reasons for maintaining the paragraph. First, the Argentine delegation had itself emphasized the point in question. Secondly, Nazi activities still remained synonymous with the most vicious form of racism. And thirdly, it should be recalled that the Convention had been drawn up in the early 1960s to fight not only apartheid, but also the resurgence of Nazi doctrines.

137. Mr. WOLFRUM agreed with that view.

138. Paragraph 11 was adopted.

Paragraph 12

139. Paragraph 12 was adopted.

The meeting rose at 6 p.m.