

INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION



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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Eleventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND FORTY-FIRST MEETING

Held at Headquarters, New York,
on Friday, 11 April 1975, at 3.30 p.m.

Chairman: Mr. HAASTRUP
Rapporteur: Mr. SAYEGH

CONTENTS

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

- (f) Third periodic reports of States parties due in 1974 (continued)
- (h) Second periodic reports of States parties due in 1975 (concluded)

Mr. DAYAL said that he, too, would like information on the question of migrant workers. He asked whether there were any national minorities in Czechoslovakia and, if so, what particular problems, if any, they experienced. The Committee expected to receive the fullest information due under the articles of the Convention in order to allow it to discharge its responsibilities. It was not clear which of the articles of the Penal Code related to the various provisions of article 4 (a) and (b) of the Convention. He had no doubt that the Government of Czechoslovakia was fully living up to its responsibilities under the Convention.

Mr. CALOVSKI said that the report on measures implementing article 4 of the Convention (CERD/C/R.69) had been very well prepared. Although the provisions of article 4 (b) of the Convention were not covered explicitly, he was sure that the official interpretation fully met the requirements of the article. The third periodic report (CERD/C/R.70/Add.32) contained important information relating to articles 3 and 7 of the Convention and showed that Czechoslovakia had a clear-cut policy on the question of racial segregation and apartheid. He hoped that additional information on administrative and other measures would be made available.

Mr. TOMKO said that he was familiar with the situation in Czechoslovakia and could answer some of the questions raised. Foreign workers worked in Czechoslovakia on the basis of bilateral agreements between Governments. There were not many of them; they had the same rights as Czechoslovak nationals and did not experience any problems. Gypsies also enjoyed the same rights as Czechoslovak nationals. The Committee could express its gratitude to the Government of Czechoslovakia for the excellent co-operation between the Government and the Committee.

Mr. JACHEK (Czechoslovakia) said that the relationship between the provisions of the Convention and the articles of the Czechoslovak Penal Code was a very broad topic. A manifestation of racial hatred was considered public if it occurred in a group of three or more persons or was expressed in a radio or television programme or in the press. If an offence under the Convention was a crime under Czechoslovak law and gave rise to a claim for damages, the question of

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(Mr. Jachek, Czechoslovakia)

reparation would be governed by the general principles of Czechoslovak law on reparation. He pointed out that most of the foreign workers in Czechoslovakia came from socialist countries under intergovernmental agreements implemented by the national authorities concerned. Their situation and rights were the same as those of Czechoslovak workers. The term "migrant worker" was not an appropriate one for the foreign workers in Czechoslovakia.

The Committee's comments would be transmitted to the Government of Czechoslovakia and would be taken into consideration when the next periodic report was being prepared.

The CHAIRMAN said that all members of the Committee had noted the quality of the report submitted by Czechoslovakia. For the next report, the Committee would welcome additional information on the implementation of article 4 (b) of the Convention and on gypsies and national minorities. Since the foreign workers in Czechoslovakia came from other socialist countries, the Committee should be satisfied on that score by the information provided by the representative of Czechoslovakia.

Mr. Jachek withdrew.

United Kingdom

At the invitation of the Chairman, Mr. Macrae (United Kingdom), took a place at the Committee table.

Mr. MACRAE announced with regret that the first four annexes to the report of the United Kingdom would not be available until the following week, and expressed the hope that the Committee's consideration of the report would not be hampered as a result.

Mr. SAYEGH, supported by Mr. VALENCIA RODRIGUEZ, suggested that consideration of the first part of the report of the United Kingdom should be postponed until the members of the Committee had received and had the opportunity to examine the relevant annexes.

The CHAIRMAN said that, if he heard no objections, he would take it that

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the Committee agreed to postpone consideration of the third periodic report of the United Kingdom until the following week.

It was so decided.

Mr. Macrae withdrew.

(h) SECOND PERIODIC REPORTS OF STATES PARTIES DUE IN 1975 (concluded)

Sweden (CERD/C/R.77/Add.1 and CERD/C/R.69)

At the invitation of the Chairman, Mr. Hagard (Sweden) took a place at the Committee table.

Mr. VALENCIA RODRIGUEZ asked for a clarification concerning the circumstances in which the law permitted differences in treatment, as stated in paragraph 2 of the report (CERD/C/R.77/Add.1). He thanked the representative of Sweden for the very informative annexes presented to the Committee. Although the report stated that it had not been found necessary to introduce new legislation against racial discrimination in connexion with the International Convention, it was clear from the summary of the report of the Commission on Immigration that certain measures were felt to be necessary in view of the fact that immigration would probably continue. According to the Commission, the Government's policy should be to ensure equality for all and increase the standard of living of immigrants and to emphasize the social programme. That was clearly consistent with article 7 of the Convention. He attached much importance to the radio and television programmes in Finnish for the Finnish population and to the fact that the Commission considered that such programmes for linguistic minorities should be increased. He asked the representative of Sweden to explain the nature of the residual legal distinctions between Swedes and foreign nationals, referred to in chapter 10 of the report of the Commission on Immigration, and expressed the hope that the Government would take the Commission's recommendations for their elimination into account. The Commission also felt that statistical data concerning migratory movements and ethnic minorities should be improved. He also asked the representative of Sweden to explain why, according to the minutes of the Cabinet meeting annexed to the report, aliens from Nordic countries entering Sweden did not need a permit for residence and employment. That did not seem entirely consistent with article 1, paragraph 1, of the Convention. Mention should be made of the study being conducted in order to enable aliens to exercise political rights.

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(Mr. Valencia Rodriguez)

Finally, while it would seem from document CERD/C/R.69 that chapter 16, section 8, of the Penal Code, as amended, now seemed to comply with article 4 (a) of the Convention, it was impossible to determine, without seeing the exact text, whether that section and chapter 16, section 5, complied with article 4 (b).

Mr. KAPTEYN expressed astonishment at the fact that, whereas the Swedish Government said that it was impossible to give a breakdown of the demographic composition of the population, the Commission on Immigration had been able to do precisely that. Indeed, the difference between the kind of information presented in the report and that presented in the annexes thereto was quite striking. He wondered if any educational, cultural, social or other measures had been taken to integrate minorities into Swedish society in accordance with article 1, paragraph 4, article 2, paragraphs 1 (e) and 2, and article 7 of the Convention. He asked whether the Constitution contained other provisions similar to that in chapter 1, article 8 - which was presumably intended for the courts and administrative authorities - that were binding upon the legislature; in that connexion, he pointed out that only temporary discrimination of a very positive nature was permitted under article 1, paragraph 4, of the Convention. He also wondered what judicial mechanism existed in Sweden, in accordance with article 6 of the Convention, to ensure that the right of individuals to seek redress could be effectively exercised. Finally, he stated that his criticism did not imply any doubt as to Sweden's intention to implement the Convention and thanked the Swedish Government for the valuable information it had presented to the Committee.

Mr. PARTSCH asked whether the statement in paragraph 4 of the report to the effect that there were no cases of violations of provisions of the Convention to be reported was correct or whether some violations might have been reported to the Ombudsman who, he believed, was not considered part of the administrative authorities. The statement in paragraph 5 regarding the impossibility of obtaining a breakdown of the demographic composition of the population was somewhat hard to believe, particularly in view of the Nordic Council's active role in protecting the rights of ethnic minorities in the various member countries.

Mr. SAYEGH recalled that, during consideration of the first report of Sweden, the Swedish representative had stated that the existing provisions of the Swedish Penal Code provided penalties for participation in organizations engaged in racial discrimination but that such organizations had not been, and probably would not be, declared illegal, since that would seem to run counter to an individual's right to freedom of association. The Committee had hoped for further explanations or for the text of the articles of the Penal Code relevant to article 4 (b) of the Convention. As neither had been provided, he asked the Swedish representative to enlighten the Committee further.

Mr. CALOVSKI said that the annexes to the report were very interesting and he believed that Sweden was fully observing the provisions of the Convention and would continue to do so.

Mr. ABOUL NASR pointed out that, although the report of the Commission on Immigration referred to linguistic and ethnic minorities, it dealt only with immigrants. He asked whether Sweden had been ethnically homogeneous originally. It would be interesting to have a breakdown of the population excluding the immigrants who had entered the country following the Second World War.

Mr. TOMKO said that he was fully satisfied with the report.

Mr. DAYAL said that Sweden's record on the problem of the elimination of racial discrimination was commendable. He had taken note of the information that the problem of foreign nationals and linguistic minorities had arisen mainly following the Second World War. Until then, the population of Sweden had been largely homogeneous, except for a small minority of Lapps and Finns. The approach of the Commission on Immigration to its responsibilities was interesting and imaginative and the goals that it had set for future immigration policy, namely, equal housing, access to social benefits and partnership etc., were progressive and far-sighted. The next report, he hoped, would include information on the progress achieved towards the stated goals. It would also be helpful to include information on Sweden's attitude to apartheid, even though its position was well known. Finally, he expressed the hope that the Committee would be given the exact texts of the provisions of the Penal Code relating to article 4 (b) of the Convention.

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Mr. HAGARD (Sweden), replying to the question on the exceptions to equal treatment permitted by law, said that one example of unequal treatment permitted by law would be the case of a person whose property was expropriated in order to make way for a road. With regard to radio and television broadcasts in the languages of minority groups, he pointed out that, when planning such programmes, the size of the potential audience must be taken into consideration. Even if a minority group was too small to make programming in its language economically advisable, the immigration authorities would publish books and information in that language to ensure that new immigrants could learn about Swedish society.

With regard to the question concerning demographic statistics, he pointed out that the Commission on Immigration was aware of the problem and had made a recommendation in that connexion. As to the action taken by Sweden under article 7 of the Convention, he pointed out that Sweden's opposition to racial discrimination and any ideology based on such discrimination had been illustrated by its support of the three United Nations Trust Funds for southern Africa and its support of the liberation movement. He read out the text of chapter 2, article 1 of the Constitution which provided that all citizens would be guaranteed freedom of information and of the press, freedom of assembly, freedom to participate in meetings and many other freedoms, and which demonstrated that no distinction was made between citizens and non-citizens, except that non-citizens could not participate in the electoral process. The Government was, however, currently investigating the possibility of aliens participating in municipal elections.

With regard to the right of legal redress required under article 6 of the Convention, he referred to the initial report of Sweden, which had stated that since there existed a variety of legal remedies and proceedings before the Swedish courts and administrative authorities, there was no need to introduce special legislation in that field. However, a new Act on damages had been formulated in 1972 which he believed had filled the gap in Swedish legislation in the matter of legal redress, although he was unable to give details concerning the content of that Act.

With reference to the statement in paragraph 4 of the report to the effect that there were no cases of violations of provisions of the Convention to be reported, he did not know whether that statement covered the actions of the Ombudsman, but he thought that any action by the latter would have been referred

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to the courts. On the subject of article 4 (b) of the Convention, he said that, on the basis of the report of the Commission set up to study the Swedish legal system before the ratification of the Convention, with particular reference to article 2 (d) of the latter, the Swedish authorities had decided that it was not necessary to promulgate a special law to give effect to article 4 (b) of the Convention. However, as stated in its initial report, the Swedish Government was following developments in that connexion, and was prepared, if necessary, to take effective new measures to ensure the observance of the Convention. He also assured the Committee that when the results of the work of the Commission on Immigration and the Commission on municipal franchise and the eligibility of immigrants were available, they would be reported to the Committee.

Finally, with regard to the request for information concerning the composition of the Swedish population before the end of the Second World War, he said that the Commission on Immigration was aware of that question but that it dealt only with immigration because prior to the end of the Second World War the population of Sweden had been remarkably homogeneous. However, the Swedish Government, the trade unions and the population as a whole recognized the substantial benefits gained by the people and the economy of Sweden through the contribution of immigrants, as indicated in the summary of the report of the Commission on Immigration.

The CHAIRMAN thanked the representative of Sweden for his very informative statement, and stressed the desire of the Committee for information concerning the demographic composition of the Swedish population and the position of the Government of Sweden on the report of the Commission on Immigration. With reference to the question whether cases of violations of provisions of the Convention had been referred to the courts, he said that, if the report had followed closely the guidelines laid down in document CERD/C/R.12, there would have been no difficulty in ascertaining whether certain texts of the law gave effect to article 4 (b) of the Convention. It would therefore be useful if the Committee had the exact text of the law implementing that article. On the subject of possible distinctions or exceptions in the treatment of individuals, he noted that reference had been made to article 1, paragraphs 2 and 4, and article 7 of the Convention, and said that the Committee would welcome

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(The Chairman)

specific information on measures taken to implement those articles. In conclusion, he thanked the representative of Sweden for appearing before the Committee, and expressed the hope that his Government would continue to co-operate with the Committee.

Mr. Hagard withdrew.

The CHAIRMAN drew attention to the draft general recommendation submitted by Mr. Čalovski (Conference Room Paper 77) concerning the need for information on administrative and other measures in the reports of States Parties.

Mr. SAYEGH said that, although he did not disagree with the purposes of the proposed draft general recommendation, he was somewhat apprehensive as to its possible consequences. There already existed a number of recommendations to States parties relating to their obligations under article 9 of the Convention. The proposed draft general recommendation should therefore be carefully considered to determine whether it added something new to the previous recommendations and to the guidelines laid down in document CERD/C/R.12. There were two other ways in which the Committee could achieve the desired results without issuing a general recommendation. First it could make clear, if necessary, the inadequacies of the reports of States parties in the presence of their representatives; secondly, the Committee could incorporate in its annual report to the General Assembly a statement of its views concerning the need for further information on the administrative and other measures taken to give effect to article 9 of the Convention.

Mrs. WARZAZI agreed with the views just expressed by Mr. Sayegh. In that connexion, she inquired whether, in the case of initial reports, the Secretariat could send to States parties copies of the general recommendations already adopted by the Committee, together with document CERD/C/R.12, and, whether, in the case of subsequent reports, it could send brief reminders at flexible dates of the questions raised by members of the Committee which might require replies by the States parties concerned.

Mr. ČALOVSKI said that he had proposed the draft general recommendation under consideration because there was a feeling in the Committee that the reports

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of States parties provided insufficient information concerning the administrative and other measures taken to give effect to article 9 of the Convention. He felt that the views of the Committee on that point would have a greater impact if they were presented in the form of a recommendation, but he could go along with a decision to incorporate those views in its annual report, if the Committee so desired.

Mr. DAS (Deputy Director, Division of Human Rights), in reply to the first suggestion made by Mrs. Warzazi, said that the Secretariat was already doing its utmost to acquaint the States parties with all the relevant documents, which were forwarded to them in documents CERD/C/R.60 and addenda, not only in connexion with initial reports, but also when sending out reminders. With reference to her second suggestion, he pointed out that when the Committee had considered rules 64 A and 66 A of its rules of procedure, it had discussed that matter at length, and the practice had developed of sending to States parties the summary records of the meetings at which the Committee had discussed their reports, so that they would be fully acquainted with the context of the questions asked in the Committee and not simply with a list of topics raised.

Mr. ABOUL-NASR inquired whether a revised version of document CERD/C/R.12, containing the text of the general recommendations adopted by the Committee, could be issued.

The CHAIRMAN said that the general recommendations were already contained in document CERD/C/R.60. He asked the Committee whether it wished to include in its annual report a statement to the effect that States parties should endeavour to provide fuller information on the administrative and other measures which they had adopted to give effect to the provisions of the Convention.

Mr. DAYAL agreed with the purposes of the proposed draft general recommendation, and could also agree to the incorporation of a paragraph expressing the Committee's views on the matter in its annual report. The manner in which the concern of the Committee was brought to the attention of the States parties was not important; it was the results which counted. The Committee wanted information on the administrative and other measures taken by States parties to give effect to the provisions of the Convention, and he could support any practical measures designed to achieve that end.

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Mr. SAYEGH pointed out that under article 9, paragraph 2, of the Convention, a procedure for the adoption of general recommendations was laid down which the Committee might not wish to follow in the present instance. He therefore suggested that the adoption of a general communication would be a better means of achieving the desired results.

Mr. CALOVSKI endorsed that suggestion.

Mr. SOLER said that the Committee had already issued a sufficient number of documents explaining the obligations of States parties to the Convention and laying down guidelines for the provision of information. He therefore did not consider it necessary to issue another general recommendation at the current stage.

Mr. TOMKO endorsed that view.

The CHAIRMAN said that, if he heard no objections, he would take it that the Committee decided not to issue a general communication as such, but to request the Rapporteur to draft a suitable statement of the Committee's views on the matter for incorporation in its annual report to the General Assembly.

It was so decided.

The meeting rose at 6 p.m.