



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Seventy-fourth session

Summary record of the 1919th meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 February 2009, at 10 a.m.

Chairperson: Ms. Dah

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The meeting was called to order at 10.20 a.m.

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

Seventeenth to nineteenth periodic reports of Finland (CERD/C/FIN/19; HRI/CORE/1/Add.59/Rev.2; list of issues, document without a reference number, distributed in the meeting in English only) (continued)

1. *At the invitation of the Chairperson, the members of the delegation of Finland took places at the Committee table.*

2. **Ms. Kurkinen** (Finland) said that, pursuant to the Act on the Sámi parliament, no amendment to which was warranted at present, any person self-identifying as Sámi was considered to be so. In order to arrive at a common definition of the population group applicable throughout the Nordic countries, the ministries in charge of coordinating issues relating to the Sámi in Finland, Sweden and Norway, and representatives of the Sámi parliaments of each of those countries met annually to discuss the matter with a view to adopting the draft “Nordic Sámi Convention” by the end of 2009.

3. As to Sámi land rights, it would seem that the countries involved were not ready to reach a consensus and for the moment the issue was being discussed at the ministerial level.

4. The Advisory Board on Sámi Affairs, created in 1963 and composed of representatives of the Ministries of Agriculture, Justice and Education and of the Sámi parliaments of Norway, Sweden and Finland, met twice a year. The Sámi parliaments in those countries had also instituted a new form of Nordic cooperation by establishing the Sámi Parliamentary Council, which met once a year.

5. In Finland, Sámi had the status of a regional minority language, and language legislation authorized members of the group to use their native language in their dealings with the judiciary and national authorities. However, public service personnel who spoke Sámi were even fewer in number, thus obliging indigenous peoples to use the services of translators and interpreters. Furthermore, Sámi children could not always be educated in their mother tongue when they left Sámi territory. In the Inari community, there were two Sámi languages, Inari Sámi and Skolt Sámi, each spoken by 300 to 400 people.

6. **Mr. Makkonen** (Finland) said that the Finnish Government had developed two new methods for obtaining data on the effectiveness of measures to foster the integration of immigrants and combat all forms of discrimination. The first, the so-called “barometer survey” method, which was to be implemented in 2009, would involve questioning immigrants themselves about the factors that hindered their integration and what changes they would recommend to improve the situation. The second method involved the use of a statistical tool to collect data on integration, and especially on the socio-economic situation of immigrants, by analysing quality indicators.

7. He was pleased to inform Committee members that persons holding a type B temporary permit would henceforth have the right to work, following an amendment to the Aliens Act adopted by Parliament the previous day. B permits were granted to persons who had unsuccessfully sought asylum in Finland but could not be returned to their countries of origin for reasons of safety.

8. In 2008, the 774 asylum applications filed under the accelerated right to asylum procedure had been turned down; in 501 cases because the primary responsibility for handling the case fell under the jurisdiction of a member country of the European Union, 189 cases were judged to be unfounded and in the 84 remaining cases on the ground that the asylum-seeker had originated from a “safe” country.

9. The Åland islands, an autonomous province of Finland, had Swedish as its official language. The islands' authorities had the power to legislate on everything affecting their territory and on some areas of socio-economic policy, including employment. In 2004 they had also adopted their own non-discrimination legislation transposing the provisions of Council of Europe Directive 2000/43/CE implementing the principle of equal treatment of persons irrespective of racial or ethnic origin, and Council Directive 2000/78/CE establishing a general framework for equal treatment in employment and occupation. Posts of ombudsman for minorities and anti-discrimination adviser had been created.

10. A 2007 survey on the Åland islands had revealed that 30 per cent of inhabitants had already been victims of some form of discrimination, half of them occurring during the preceding 12 months. Most discrimination had occurred in the workplace. In order of highest incidence, they were based on gender, age, religious beliefs and ethnic origin. Moreover, 10 per cent of people claiming to have been victims of discrimination had been discriminated against because of their ethnic origin.

11. An example of "best practice" adopted in the implementation of legislation on non-discrimination had been to establish the sharing of the civil and administrative burden of proof in cases relating to acts of discrimination, which had resulted in better protection of victims of discrimination.

12. Two studies to discover whether all citizens had equal access to restaurants and other public establishments had been conducted in recent years; they involved the "testing" method using two persons of Roma origin. The results were very negative, those persons having been denied entry into all of the establishments they had approached.

13. As to cybercrime, the Ombudsman for Minorities had concentrated in recent years on combating Internet racism and had reported several cases to the police. Unfortunately, in most cases, racist propaganda had been spread via servers established abroad, thus escaping the jurisdiction of the Finnish authorities. New measures were envisaged, such as the possibility of enforcing a requirement for Internet access providers to check the content of discussion forums in order to censure racist propaganda or even to require them to include a button on web pages enabling users to notify the police of racist propaganda with a single click.

14. **Mr. Cortés-Téllez** (Finland) said that the national awareness-raising campaign on the theme "YES – Equality is Priority" was the main awareness-raising programme implemented by the Finnish authorities to combat racism and racial discrimination. Other awareness-raising measures included the allocation of subsidies by the Ministry of Education since 1995 to non-governmental organizations to enable them to enter schools to raise awareness of racism among pupils. The Finnish authorities had also implemented a three-year programme to combat racism in sport, in particular football, aimed at alerting referees, coaches and fans to the problem of racist insults at sport venues.

15. **Mr. Prosper** asked what technological measures Finland had taken to combat racist sites and other forums on the Internet. The Government might also consider simply prohibiting access to foreign racist sites.

16. **Mr. Lahiri** said that, as he understood it, since its entry into force in February 2004, the National Discrimination Tribunal had heard only six discrimination cases. It would perhaps be useful for the State party to inform the population of the mechanisms in place for combating discrimination and to encourage victims to use them. He regretted that Finland was not collecting data based on ethnic origin as, in their default, the Committee and other treaty bodies were not always able to obtain a clear picture of the situation of minorities and foreigners in specific countries. Also, data collection regarding ethnic origin did not really constitute an invasion of privacy and did not systematically compromise the confidentiality of personal data. He welcomed the fact that the 2004 Aliens Act had been

amended to allow foreigners with a temporary residence permit to work, but nonetheless noted with concern that racial discrimination persisted in the workplace since there were far more unemployed foreigners than Finns. He invited the delegation to provide the Committee with more information on the subject.

17. **Mr. Diaconu** said that Finland should find new and more effective ways to monitor and prohibit racist programmes on the Internet, for example by taking action against racist website users, regardless of the country in which the site was registered.

18. **Mr. Lindgren Alves** asked why Finland, like most European countries, prohibited collection of data on its inhabitants' ethnic origin. Noting in paragraph 5 of the report that Russians, Estonians, Swedes and Somalis were the main groups of foreigners residing in Finland, he also wished to know if those groups were recognized as national minorities and, if so, whether they were represented at all in public institutions. Lastly, he would like to know if Finland was a party to the Council of Europe's European Framework Convention for the Protection of National Minorities.

19. **Mr. de Gouttes** asked for further information on the Council of Europe study, which he understood to relate to the accelerated processing of human rights cases. In its oral replies, the delegation had also referred to a plan to develop integration indicators of people belonging to minority groups. He would like more information on that matter.

20. **Mr. Murillo Martínez** requested more information on the number of foreigners held in Finnish prisons. He was surprised to read in paragraph 142 of the report under consideration that "a prisoner's skin colour often determines how they can be placed in the different departments". He asked the delegation to explain what that sentence meant.

21. **Mr. Kosonen** (Finland) said that the study currently being conducted by the Council of Europe was not on the accelerated processing of human rights cases but on the accelerated procedure for handling asylum applications and the drafting of new guidelines for protecting the fundamental rights of asylum-seekers in all European Union countries. Finland was a party to the European Framework Convention for the Protection of National Minorities and had participated actively in the drafting of the instrument, although not officially recognizing any national minority.

22. **Mr. Makkonen** (Finland) said that his country had faced some difficulties in attempting to reprimand and sanction Internet sites circulating racist theories and ideas without infringing the freedom of expression. The Finnish authorities were nonetheless seeking appropriate solutions to combat such activities.

23. The National Discrimination Tribunal had processed some 100 cases since its establishment in 2004 and a number of its judgements had since become case law, in particular those handed down with regard to de facto segregation in schools. The tribunal had recently taken steps to publicize its decisions more widely and had created an Internet site to encourage other potential victims of discrimination to file complaints.

24. As to the origin of domestic legislation on data protection, it had been promulgated in order to transpose into Finnish law the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the subsequent European Union guidelines on the protection of individuals with regard to the processing of personal data and on the free movement of such data and concerning the processing of personal data and the protection of privacy in the electronic communications sector. Finnish legislation on data protection had also created an ombudsman, who oversaw the legality of personal data processing procedures.

25. The issue of data collection regarding ethnic origin had not been discussed at the national level, because many organizations and associations representing minorities, including the Roma, were fiercely opposed to the idea.

26. **Ms. Kurkinen** (Finland) said that 300 foreign nationals and an estimated 170 Roma were imprisoned in Finland.

27. **Mr. Kemal**, Country Rapporteur, asked whether Finland had granted asylum to persons who had fled armed conflicts, in particular Somalis, and how such persons were cared for by the State party.

28. **Mr. Cortés-Telléz** (Finland) said that Finland had gained some experience in providing temporary protection for persons fleeing armed conflicts, mainly nationals of the former Yugoslavia, some of whom had returned to their countries while others had decided to remain in Finland. A large number of Somalis had arrived in Finland at the beginning of the 1990s, escaping from the armed conflicts rife in their country. Thanks to the State party's family reunion policy, Somali immigration had remained steady over the years. However, Finland, in common with 10 or 11 other countries in the world, had an official quota policy for refugee admissions and, therefore, a limited intake capacity.

29. **Mr. Kemal**, Country Rapporteur, thanked the Finnish delegation for its valuable cooperation and welcomed the frank and open dialogue with the Finnish delegation and the quality of the State party's written and oral replies. He encouraged the Finnish authorities to intensify their awareness-raising efforts on tolerance and racial harmony among young people aged 14 to 17.

30. **Mr. Kosonen** (Finland) said that eliminating racism was one of his country's persistent aims, which called for unstinting efforts. He hoped that his delegation's comments would be incorporated into the Committee's concluding observations, and stressed that the corrective actions deemed necessary by the Committee would be examined closely by Finland.

31. **The Chairperson** expressed her appreciation for the quality of the periodic report of Finland and the clear and frank replies given by the delegation to the questions contained in the list of issues and to the observations of Committee members. She looked forward to continued dialogue with the State party.

32. *The delegation of Finland withdrew.*

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

Follow-up procedure

Bosnia and Herzegovina (CERD/C/BIH/CO/6/Add.1)

33. **Mr. Amir** (Coordinator for follow-up to the Committee's concluding observations) recalled that on 8 March 2006 the Committee had adopted its concluding observations on the initial report and the second to sixth periodic reports of Bosnia and Herzegovina (CERD/C/BIH/CO/6). Bosnia and Herzegovina had sent replies to the observations, issued as document CERD/C/BIH/CO/6/Add.1 dated 12 November 2007.

34. In paragraph 11 of its concluding observations concerning Bosnia and Herzegovina, the Committee had expressed its deep concern that under articles IV and V of the State Constitution only persons belonging to a group considered by law to be one of Bosnia and Herzegovina's constituent peoples (i.e. Bosniaks, Croats and Serbs) and who were the majority in the Entity where they resided (i.e. Bosniaks and Croats within the Federation of Bosnia and Herzegovina, and Serbs within the Republika Srpska) could be elected to the House of Peoples and to the tripartite Presidency of Bosnia and Herzegovina. The existing legal structure therefore excluded from the House of Peoples and the Presidency all persons referred to as "Others"; in other words, persons belonging to national minorities or to ethnic groups other than Bosniaks, Croats or Serbs. The Committee had therefore urged the State party to amend the relevant provisions of the State Constitution and the Election Act in

order to ensure all citizens' equal enjoyment of the right to vote and to stand for election, irrespective of their ethnicity.

35. In its replies the State party had stated that an agreement on amending the Constitution had been signed in March 2006 but that it had been unable to adopt the proposed amendments due to a failure to secure the required two-thirds Parliamentary majority. The amendments would have enabled the State party to reject the principle of a collective presidency and to nominate a president and two vice-presidents, who could not belong to the same population group. Three seats in the House of Representatives would also have been allocated to members of national minorities. The political parties that had signed the agreement had agreed to resume work on amending the Constitution after the 2006 general legislative elections.

36. Concerning paragraph 11 of the Committee's concluding observations, he proposed that the Committee should welcome the information provided by the State party but state that it was very concerned that the proposed constitutional amendments had not been adopted. The Committee might also once again urge the State party to amend the relevant provisions of the Constitution and the Election Act in order to ensure the equal enjoyment of the right to vote, irrespective of ethnicity.

37. The State party, on the other hand, had not provided any information on follow-up to the recommendation in paragraph 18 of the Committee's concluding observations (CERD/C/BIH/CO/6). The Committee might therefore note with concern that the State party had not addressed the recommendation and urge it once again to ensure that the complaints of all workers who had been dismissed from their jobs and/or placed on waiting lists during the armed conflict because of their ethnicity were resolved expeditiously and that the recommendations of the Entity and cantonal commissions should be implemented promptly and in good faith.

38. As for the recommendation in paragraph 20 of the concluding observations, the State party underlined that the Roma were the largest and most vulnerable minority group and that housing, employment, health-care and social welfare needs of its members were enormous and exceeded the capability of the country, which had emerged impoverished and broken from the conflict that had devastated it. The Government of Bosnia and Herzegovina considered the main problem to be poverty and not the discriminatory behaviour of majority groups or the community as a whole. The Committee might therefore wish to recommend that the State party promulgate the Act on the protection of the rights of persons belonging to national minorities and intensify its efforts to facilitate the return of the Roma to their pre-armed conflict homes and compensate those whose homes were currently occupied by others or had been destroyed during the conflict.

39. With regard to the recommendation contained in paragraph 22 of the Committee's concluding observations (CERD/C/BIH/CO/6), the Government of Bosnia and Herzegovina had informed the Committee that it continued to do its utmost to implement the Action Plan on the Educational Needs of Roma and Other National Minorities, but no follow-up mechanism had yet been put in place to monitor its implementation. However, during the 2005/06 academic year the number of Roma children attending school and Roma or other minority students at university had increased. Within the limits of the available resources of the municipalities, cantons and entities concerned, deprived Roma pupils had received textbooks and learning materials and financial support for their transportation and food costs.

40. In the light of the above, he proposed that the Committee ask the State party to provide more detailed information on progress made on creating a mechanism to monitor implementation of the recommendations contained in the Action Plan on the Educational Needs of the Roma and Other National Minorities, recent statistics on the number of Roma

children attending primary and secondary school, and disaggregated data on school attendance by children of other minorities living in the country. The Committee might also ask the State party to provide more information on special measures to combat discrimination against the Roma, including campaigns launched to raise awareness among teachers, school principals, non-Roma pupils and their families.

41. As to the recommendation in paragraph 23 of the Committee's concluding observations (CERD/C/BIH/CO/6), the Government of Bosnia and Herzegovina had acknowledged that since the end of the war the issue of schools structured as "two schools under one roof" had not been resolved because all constitutional authority on educational matters was assigned to the cantons. Efforts had been made to coordinate policies between the cantons and the federal State, but much remained to be done to end segregation in schools. However, a series of actions had been taken under the education system reform process, including the removal of negative content from school textbooks. There were various obstacles to the specific implementation of a common core curriculum, and schools continued to have two different curricula, one Bosnian, the other Croatian.

42. In the light of the above, the Committee could commend the State party on its self-critical approach and its efforts to remove discriminatory content from school textbooks. The Committee might wish to urge Bosnia and Herzegovina to intensify its efforts to foster coordination between the cantonal and federal authorities in order to accelerate the unification of "two schools under one roof" and to end segregation in schools as soon as possible. It might also invite the State party to establish a common core curriculum as soon as possible, taking into account the specific cultural characteristics of the various ethnic groups living on its territory.

43. **Mr. Prosper**, supported by **Mr. Lindgren Alves**, noted that, since consideration of the sixth periodic report of Bosnia and Herzegovina, the situation in the country had greatly deteriorated and relations between minorities were increasingly strained. He therefore proposed that the Committee should not wait for the submission of the State party's next report to investigate the situation and should avail itself of the follow-up procedure to study it closely and, if necessary, resort to its early warning and urgent-action procedure before the obvious inter-ethnic tensions degenerated into conflict.

44. **Mr. Diaconu** pointed out that Bosnia and Herzegovina, the Republic of Korea and New Zealand were the only countries that had bothered to send information to the Committee under the relevant follow-up procedure. With regard to Bosnia and Herzegovina, the Committee should stress the need to amend the Constitution and the Election Act in order to remove the provisions preventing the *de facto* enjoyment of the right to vote and to stand for election by persons belonging to minorities other than the constituent peoples (i.e. Serbs, Croats and Bosniaks).

Republic of Korea (CERD/C/KOR/CO/14/Add.1)

45. **Mr. Amir** (Coordinator for follow-up to the Committee's concluding observations) recalled that, in its concluding observations on the fourteenth periodic report of the Republic of Korea (CERD/C/KOR/CO/14), adopted on 17 August 2007, the Committee had requested the State party to provide information on the follow-up to the recommendations contained in paragraphs 11, 13 and 17 of that document within one year, which it had done on 29 September 2008 (CERD/C/KOR/CO/14/Add.1). After reading out paragraphs 1 to 14 and 19 to 21 of that document, he proposed that, in respect of the State party's follow-up to the recommendation in paragraph 11 of the concluding observations, the Committee should request the State party to provide detailed information on the content of the National Action Plan for Foreigners, and an English translation of the Act on the Treatment of Foreigners. The Committee could also ask the State party to ensure that the

National Action Plan for Foreigners covered all the rights under article 5 of the Convention, namely the right to employment, housing, health care and education.

46. With regard to the Republic of Korea's follow-up to the recommendation in paragraph 13 of the concluding observations, the Committee might draw the State party's attention to the provisions of article 4 of the Convention and remind it that a racist motive for a criminal offence should be considered as an aggravating circumstance and that the relevant sentence should be proportional to the seriousness of the act.

47. As to the follow-up to the recommendation contained in paragraph 17 of the concluding observations, the Committee might congratulate the Republic of Korea on its efforts to strengthen the protection of the rights of foreign women married to Korean nationals, including offering more comprehensive services in shelters for women migrants, and encourage the State party to continue its efforts to ensure that foreign women married to Korean nationals had access to all of those services. The Committee could also note with interest the adoption of the Act on regulating marriage brokerage agencies and request the Republic of Korea to provide more detailed information on its implementation.

48. **The Chairperson**, thanking the coordinator for follow-up to his presentation, said that the Committee would continue its consideration of the follow-up procedure at a subsequent meeting.

The meeting rose at 12.50 p.m.