



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
May 2014
English
Original: French

Committee on the Elimination of Racial Discrimination Eighty-fourth session

Summary record of the 2275th meeting

Held at the Palais Wilson, Geneva, on Monday, 10 February 2014, at 3 p.m.

Chairperson: Mr. Calí Tzay
later: Mr. Avtonomov (Vice-Chairperson)
later: Mr. Calí Tzay (Chairperson)

Contents

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

Twentieth and twenty-first periodic reports of Poland

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.14-40776 (E) 150514 300514



* 1 4 4 0 7 7 6 *

Please recycle A small graphic of a recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 3 p.m.

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

Twentieth and twenty-first periodic reports of Poland (CERD/C/POL/20-21 and CERD/C/POL/Q/20-21)

1. *At the invitation of the Chairperson, the delegation of Poland took places at the Committee table.*
2. **Mr. Stachańczyk** (Poland) said that an initial draft of the report under consideration had been uploaded to the website of the Ministry of the Interior, which had been responsible for drafting it, and that human rights defence organizations had thus had the opportunity to suggest changes. Poland had extended the scope of legal provisions that guaranteed respect for the principle of equal treatment, and the law implementing certain European Union provisions on equal treatment, which had entered into force on 1 January 2011, had converted the European Union anti-discrimination directives into national law. In December 2013, the Council of Ministers had endorsed the National Action Plan for Equal Treatment, which defined objectives and priorities regarding equal treatment and established methods for preventing discrimination on the grounds of gender, race, ethnic origin, nationality, religion, denomination, disability, age or sexual orientation. The Government of Poland had also taken action to raise awareness about equal treatment and was carrying out a project to establish equal treatment as a standard of good governance, along with other projects at the regional level that targeted journalists and public administration staff who dealt with ethnic and national minorities or foreign nationals. The main objective of the Council for Prevention of Racial Discrimination, Xenophobia and Related Intolerance, established in February 2013 under the Ministry of Administration and Digitization, was to coordinate Government action in that area at the national and regional levels.
3. Poland had amended the Criminal Code to regulate offences motivated by prejudice and had criminalized the production, possession and distribution of items that incited hatred based on ethnic, racial or religious difference, as well as the intention to distribute such material. The General Prosecutor's Office had taken steps to ensure the effectiveness of prosecuting hate crimes motivated by race, religion, nationality, ethnic origin or lack of religious affiliation. It had ordered that each appellate prosecutor should appoint one district prosecution office within the jurisdiction of each regional prosecution office, and that those district prosecution offices should be responsible for conducting preparatory proceedings in cases involving hate crimes. In addition, as part of a programme for law enforcement officers on combating hate crimes, approximately 70,000 police officers had been trained to prevent hate crimes and to deal with victims of such crimes. The Ministry of the Interior was about to launch a project to educate foreign nationals living in Poland about the provisions of hate crime law, so as to encourage them to file a complaint if they ever became victims of such crimes. The campaign made use of multilingual leaflets and a website that had been translated into 10 languages.
4. The Government had chosen the Polis Association of Young Journalists to serve as national coordinator of the Council of Europe campaign to combat hate speech online by holding workshops targeting all stakeholders (members of parliament, civil servants, members of NGOs, teachers and young people) and had also tasked it with creating a website on the issue. Many educational activities had also been undertaken to raise the profile of Jewish history and culture, and many projects had been carried out to teach younger generations about the Holocaust. Training courses on racial discrimination were held for all members of the judiciary, prison staff and detainees, and prisons undertook clean-ups of cemeteries of various faiths throughout the country. The Government of

Poland was working to combat xenophobia and all forms of discrimination in localities and regions in which facilities for aliens applying for international protection were located. In addition, staff of the Office for Foreigners attended training sessions on the diverse cultures to which most asylum seekers belonged. In 2012 and 2013 the Ministry of the Interior, in cooperation with the Border Guard, had conducted a number of actions to ensure that foreigners were detained in proper conditions. As a result of various inspections, a decision had been taken to encourage the use of alternatives to detention for adults and to fully ban the placement of children under 15 years of age and unaccompanied minors in guarded facilities for foreigners. The Border Guard had also been vested with the power to issue deportation decisions, which resulted in shorter detentions. It had also been decided that members of the same family should be detained together, that foreigners could move freely around the guarded facilities and that minors should have access to education and recreational activities appropriate for their age level. Lastly, the staff of guarded facilities received training in foreign languages, dispute resolution techniques and multicultural competencies.

5. As of 1 May 2014, adult migrants could study at public schools for adults free of charge under the same terms and conditions as Polish nationals. In cooperation with civil society, the Government had taken a number of measures to combat human trafficking, focusing on reinforcing victim support by establishing the National Intervention and Consultation Centre for Victims of Trafficking and two shelters for victims, most of whom originated from Romania, Ukraine, Bulgaria and Viet Nam. The new Aliens Act, which would enter into force on 1 May 2014, would streamline the issuing of residence permits to aliens confirmed to be victims of human trafficking. The Government paid particular attention to the situation of the Roma, and since 2001 it had funded many actions to ensure that they enjoyed equal opportunities in areas such as employment, education, social integration and health. Those actions had clearly been successful, because the level of antipathy towards the Roma — which had stood at 73 per cent in the mid-1990s, when the number of Roma beggars from Romania had been at its peak — had since fallen to 52 per cent in 2013. Lastly, no racist incidents had been reported during the 2012 Union of European Football Associations (UEFA) European Championship, and all arrests had been related to hooliganism.

6. **Mr. Lahiri** (Country Rapporteur) said that a recent poll had shown that antipathy towards Jews among high school students remained high, as manifested in hate crimes at sporting events and the vandalization of Jewish monuments and cemeteries. Given that for the first time in their history the 39 million Poles had been asked to declare their ethnic or national background during the 2011 census, it would be interesting to know the demographic make-up of the country in more detail. It would also be useful to know: whether the Office of the Human Rights Defender had been provided with the resources necessary to carry out its added mandate under the Anti-Discrimination Act of December 2010, namely to help victims of discrimination to file complaints; what work was carried out by the Council for Prevention of Racial Discrimination, Xenophobia and Related Intolerance; and to what extent the Council had managed to combat discrimination in the State party.

7. Poland had not implemented a policy for countering acts motivated by racism, intolerance and hatred, and as a result the judicial authorities tended to underestimate the importance of such acts and not to prosecute the perpetrators. Also problematic was the fact that Polish law did not classify racial motivation as an aggravating circumstance and that the Human Rights Defender had no authority to deal with discrimination in the private sphere. Moreover, in the first half of 2013, only eight complaints of discrimination had been lodged, even though there had been a worrying increase in racist crimes during that period. According to some reports, prosecutors, police officers and judges had a poor understanding of what constituted a racially motivated offence. He asked the delegation to

comment on allegations that most offenders received only a fine or were not prosecuted at all because they could not be identified. The Committee had received very worrying reports that victims were unwilling to report such crimes to the police because they were convinced that their complaints would not be taken seriously.

8. In addition, according to reports, the office of the public prosecutor rarely prosecuted desecrations of Jewish places of worship or cemeteries, on the ground that there were no living Jewish victims. Persons of African or Asian descent were said to be particularly vulnerable to ethnic profiling and violent attacks. It therefore seemed urgently necessary to include in school textbooks chapters on tolerance, non-discrimination and intercultural dialogue. In summary, numerous studies conducted by independent academic centres and NGOs showed that the phenomenon of racial discrimination remained a visible and serious problem in Poland. Many observers believed that the understanding of hate speech among police officers, prosecutors and judges was still deficient and that their instinctive reaction was to belittle such actions, with the result that they were not recognized as crimes. Some observers had even claimed that Polish authorities did not consider racism and discrimination to be important issues. The resulting inaction and passivity created an environment that fostered hatred, racism and discrimination, which the State party must urgently combat.

9. **Mr. Kemal** said that the situation of the Roma remained extremely worrying in almost all areas. Several NGOs believed that Poland should be more vigilant with respect to combating hate crimes and reported that the authorities had, for example, refused to open an investigation into the vandalization of the home of a defender of the rights of Jews, on the grounds that it could not be considered a hate crime since the victim was not Jewish. Given that similar incidents had occurred at sporting events, it would be interesting to know how the State party planned to combat the stigmatization of Jews in the future. The State party should also make greater efforts to combat ethnic profiling, which was practised not only by police and immigration officers but also at the entrance of restaurants and nightclubs.

10. **Mr. Diaconu** said that he was surprised to learn that more than 650,000 persons had not declared a nationality when responding to the 2002 census, and he asked whether it should be concluded that they were all stateless persons. He requested clarification about the meaning of paragraph 24 of the State party's report, according to which the supposed reason the Roma community did not take advantage of the opportunity provided to introduce bilingual teaching in Polish and Romani was because of its reluctance to promote its language in any form, due to the taboos surrounding the language. What were those taboos? He welcomed the fact that the 2011 Act on equal treatment defined direct and indirect discrimination, and he asked whether it specifically took into account the four components of discrimination included in the definition set out in the Convention, namely distinction, exclusion, restriction and preference based on race. He suggested that the State party should consider punishing racist acts in sports not only individually but also collectively, so as to engage the responsibility of sports clubs as well as that of the organizers of sporting events.

11. It would be useful to know the respective powers of the Government Plenipotentiary for Equal Treatment and the Human Rights Defender, both of whom were authorized to receive and consider complaints of racial discrimination, and to know whether victims could choose to submit a complaint to one body rather than the other. The increasing number of racist attacks committed by nationalists over the past two years showed that there was a need to strengthen training and awareness-raising on racism for law enforcement officials and for judges and prosecutors. It was worrying that a prosecutor could decide not to investigate the display of swastikas at an event on the ground that the swastika was a symbol of happiness in Asia.

12. **Mr. Avtonomov** asked how the Programme for the Roma Community was implemented and evaluated and why several programmes for Roma that had expired in 2012 and 2013 had not been renewed. He wished to know more about the 50,000 respondents in the Pomorskie Voivodeship who had declared that they used the Kashubian language, and about the Ruthenians – a people with their own language and culture who also lived in Belarus and Slovakia.

13. **Mr. Murillo Martínez** asked the delegation to provide further information on the life expectancy of the different ethnic groups residing in Poland and on infant mortality and detention rates disaggregated by ethnicity. He welcomed the State party's efforts to combat human trafficking but wished to know whether, in the judicial system, the burden of proof could be reversed in favour of the victim.

14. **Mr. Vázquez** related an incident from 2012 that, in his view, clearly illustrated the situation in Poland with regard to racism. That year, the first black person elected to the Polish parliament, who had been publicly insulted by a colleague, told a journalist who had asked him about the incident, that it was not an indication of racism in Poland but rather the sign of weak intercultural awareness. That comment said much about Polish attitudes towards so-called "visible" minorities, which was why the State party should conduct awareness-raising campaigns and education programmes to combat racism and intolerance. Prosecutors and judges who refused to prosecute persons who publicly displayed swastikas on the ground that it was a symbol of happiness in Asia should be made particularly aware of such issues.

15. He asked whether any Roma had been involved in developing the programmes designed for their own benefit and asked how the authorities might better identify victims of trafficking and thereby combat the phenomenon more effectively. He wished to know what sanctions sports organizations had imposed against persons involved in racist incidents at sporting events. Lastly, noting that certain provisions of the Criminal Code were based on the principle of reciprocity, he wished to know whether a foreigner who had been unjustly detained in the State party could claim damages only if his or her country of origin also recognized the right of Polish nationals to seek redress under similar circumstances.

16. *Mr. Avtonomov, Vice-Chairperson, took the Chair.*

17. **Mr. Yeung Sik Yuen** asked whether the elimination of five Roma classes referred to in paragraph 22 of the report might not be taken as a sign that the Government wanted to assimilate the Roma, and whether the Polish authorities were trying to promote interculturalism. He sought explanations for the high dropout rate among Roma children and the fact that some 17 per cent of Roma children were placed in schools or childcare facilities for children with special needs. Recognizing that Roma women traditionally breastfed their children for much longer than other women, he asked whether the resulting late enrolment of Roma children might explain the learning and integration problems they faced.

18. *Mr. Calí Tzay, Chairperson, took the Chair.*

19. **Mr. Lindgren Alves** noted that, based on the statistics provided in paragraph 10 of the State party's core document (HRI/CORE/POL/2012), the number of Roma in the State party according to census data was much lower than the figure provided by NGOs, and he requested clarification in that regard. He wished to know more about the taboos surrounding the Roma language and asked why the Roma were opposed to any form of protection for their language. He wondered why there had been a sudden increase in the number of Roma associations during the reporting period. Lastly, he was surprised that a country such as Poland, which had suffered under Nazi occupation during the Second World War and had no more than 1,000 Jews among its current population, would be

experiencing anti-Semitism and the rise of neo-Nazi groups. He asked the delegation to comment on that matter.

20. **Ms. Crickley**, noting that the census results did not reflect the true number of Roma in the State party, asked what measures the Government was taking to ensure that Roma held a more positive view of belonging in their community and were not reluctant to identify themselves as Roma. She wished to know how the State party planned to encourage the teaching of the Romani language while still taking into account the concerns of Roma who feared that it would jeopardize their cultural identity. She wished to know whether any special measures had been taken to implement Council of Europe Directive 2000/43 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, particularly in connection with combating indirect discrimination. Lastly, she asked whether the low number of complaints of racial discrimination received thus far by the Human Rights Defender was due to a lack of resources allocated to that office.

21. **Mr. Bossuyt** wished to know for how long Roma from other European countries or third countries had been living in the State party, whether they held residence permits and whether they were entitled to welfare benefits, including family benefits and unemployment benefits. He asked the delegation for a progress report on the implementation of the Programme for the Roma Community, including the difficulties encountered and lessons learned.

22. **Mr. Avtonomov** asked whether Roma policies differed depending on whether the beneficiaries were long-standing residents in the country or new arrivals. He wished to know whether regional or municipal programmes for ethnic minorities had been developed.

23. **Mr. Stachańczyk** (Poland) said that cases of Roma being denied entry to public places were few and far between. The authorities did not tolerate such incidents and took measures to ensure that perpetrators were prosecuted and brought to justice. The provisions stipulating that damages could be granted to a foreigner who had been wrongfully detained only if similar provisions existed in the laws of the foreigner's country of origin would be repealed in 2015, and a draft amendment to the relevant legislation would enter into force in May of that year.

24. **Ms. Różycka** (Poland) said her Government was convinced that education was key to the integration of the Roma. According to the 2011 census, 82 per cent of Roma over 18 years of age had attended primary school, but half of them had dropped out at some point in their schooling. In addition, 247 Roma held a university degree, compared with 13 when the previous census had been taken, and 8 per cent had graduated from a vocational school. Moreover, a high proportion of the Roma who held a university degree were women. When the first Programme for the Roma Community had been launched in 2000, some 70 per cent of Roma children were attending school, while 30 per cent had dropped out of school or had never attended. Currently, however, 85 per cent of Roma children attended school and there were no longer segregated classes for Roma. In the 1990s, the authorities had set up classes for illiterate children aged between 15 and 18 so that they could learn basic literacy and numeracy. In 2000, when the decision had been made to do away with classes for Roma children, the students' parents had put up fierce resistance, threatening to withdraw their children from school if the decision was implemented. The authorities had therefore chosen to let things run their natural course, and over time the classes had gradually disappeared.

25. The Roma strongly objected to the idea of teaching Romani in the formal education system because they believed it should be spoken and understood only by Roma. She did not hold out much hope that their views on the issue would change. The authorities were aware that the Romani language was a key element of Roma culture, and, noting that it had

begun to mix with Polish, they had launched initiatives to encourage the Roma to write in their own language so as better to preserve it. It was worth noting that the four Roma newspapers that were published in the country, with State support, were all written almost entirely in Polish, which illustrated the determination of the Roma to maintain exclusive use of the Romani language.

The meeting rose at 6 p.m.