



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

Distr.
GENERAL

CERD/C/SR.1716
18 August 2005

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-seventh session

SUMMARY RECORD OF THE 1716th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 August 2005, at 10.15 a.m.

Chairman: Mr. YUTZIS

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Seventeenth and eighteenth periodic reports of Iceland (continued) (CERD/C/476/Add.5; HRI/CORE/1/Add.26)

1. At the invitation of the Chairman, the members of the delegation of Iceland resumed their places at the Committee table.
2. Mr. PILLAI, referring to a report by the Icelandic Human Rights Centre, expressed concern about the existence of an association of Icelandic nationalists which sought to prevent further settlement of non-European nationals in Iceland and was known to use racist rhetoric. The existence of that association had not been condemned by any officials or politicians. He asked whether any steps had been taken to address the issue.
3. He also asked the delegation to comment on the Supreme Court judgement of April 2002 sentencing an individual for violation of article 233 (a) of the General Penal Code.
4. According to a report by the European Commission against Racism and Intolerance, manifestations of discrimination and racism in daily life, such as refusal of access to public places, harassment and insults, did occur in Iceland. The report had warned that immigrants were primarily viewed as an economic resource and that any changes in Iceland's economy could lead to a climate of hostility against persons who were perceived as different. He asked the delegation to comment on that information.
5. Ms. ARNADOTTIR (Iceland) said her Government believed that its legislation fulfilled the requirements of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In particular, article 74 of the Constitution stipulated that an association aiming to attack a group of persons on the grounds of nationality, colour, race or religion by mockery, slander, insults, threats or other means would be violating article 233 (a) of the General Penal Code. Participation in or attempts to commit such an offence were also criminalized.
6. Although only one judgement had been issued under article 233 (a) of the Penal Code, its significance should not be underestimated. She stressed that the case was of great importance to Icelandic judicial practice and that such offences were taken very seriously. According to the public prosecutor's office, no complaints had been filed under article 180 of the Penal Code. Two complaints had been filed under article 233 (a), but proceedings relating to the second complaint had been discontinued.
7. In 2001, the Reykjavik police had opened an office which was supposed to serve as a link between the police and foreign nationals. The office cooperated with International House and had provided assistance to a number of foreign individuals. However, it had not received any complaints of discrimination.

8. With regard to the association of Icelandic nationals mentioned, she said that, to her Government's knowledge, the association was no longer active.

9. The Government's reports to the Committee, as well as the Committee's concluding observations, were published on the Government's website. The latter were also translated and published in special news releases. The issue of ratification of the Convention on Cybercrime and its Additional Protocol was still under consideration. The criminal law committee had proposed a series of amendments to the Penal Code. They were expected to be adopted in the summer of 2006.

10. Ms. BRODDADOTTIR (Iceland) said that the Municipal Elections Act had been amended in 2002 to allow foreign nationals to vote in municipal elections. Although exact numbers were not known, she estimated that about a thousand people had exercised their new right in the municipal elections which had been held the same year. One foreign national had become a member of a municipal government. Foreign nationals all over the country had been informed of their new right, inter alia, in a special brochure published in a dozen languages.

11. She acknowledged that young foreign nationals who turned 18 and did not have a residence permit were required to demonstrate their ability to support themselves financially. However, cases of young people dropping out of high school as a result were very rare. In a number of instances, the Reykjavik social services had provided assistance to young foreigners to help them finish high school.

12. Temporary work permits for foreign employees were issued to their employers. After three years of work, the permits were issued to the employees themselves. The small size and homogeneous nature of the Icelandic labour market made it sensitive to changes. Granting temporary work permits to employers rather than employees enabled the Government to monitor the situation more efficiently. However, foreign workers received a copy of their work permit, as well as a residence permit. As to foreign companies based outside Iceland, she said that in 2003 the Labour Directorate had issued 131 work permits to workers employed by such companies.

13. Ms. ARNADOTTIR (Iceland) said that the Ministry of Justice was responsible for reviewing expulsion orders. With regard to asylum-seekers, she said there was no link between their small number and the events of 11 September 2001. Some asylum-seekers were simply sent back to the countries where they had resided before coming to Iceland, in accordance with the Dublin Convention. Referring to paragraph 25 of the report, she said that, as a result of cooperation with the Schengen countries, since 2001 there had been a significant increase in the number of applications for asylum. Permits to remain in Iceland on humanitarian grounds were issued for a period of one year. The fact that the Immigration Office had broad discretion to issue such permits was beneficial for applicants as well as the State.

14. Remedies for victims of active discrimination were provided for under the Penal Code and other legislation. Victims could claim compensation in criminal and civil cases; it could be paid even if the offender was not known or could not be found.

15. The Immigration Office was attached to the Ministry of Justice and all orders issued by the Office could be appealed; neither the Ministry nor the Office was immune to scrutiny by the courts. In decisions on immigration-related cases, the opinions of the Ombudsman were also taken into consideration.

16. Government institutions cooperated closely with NGOs and the Icelandic Human Rights Centre. Icelandic NGOs had participated in the preparation of Iceland's periodic report. They also played an active part in the adoption of new legislation; all drafts were submitted to NGOs and the Human Rights Centre for comment prior to their adoption. The Human Rights Centre and the Human Rights Institute of the University of Iceland received funding through the Ministry of Justice budget. The Human Rights Centre was not a national human rights institution within the meaning of the Paris Principles; there were no immediate plans for the establishment of such an institution.

17. Ms. BRODDADOTTIR (Iceland) said that the Ministry of Social Affairs cooperated closely with the Icelandic Red Cross, which had observer status in refugee camps and would be granted full participation in the new committee on refugees and asylum-seekers. The Red Cross participated actively in decision-making processes and the provision of services and support for refugees and asylum-seekers. The Ministry also cooperated with NGOs in the areas of children's rights, workers' rights and the rights of persons with disabilities.

18. Ms. ARNADOTTIR (Iceland) said that the statement made in paragraph 31 was inconsistent with the rest of the report and did not accurately reflect her Government's position. The Government was aware of the problems arising in the context of the recent increase in the proportion of the Icelandic population with a foreign ethnic background. Measures taken to address the issue were described in further detail in paragraphs 50 to 58 of the report.

19. As a rule, asylum-seekers had access to interpreters. In 2004, a new provision had been incorporated in the Act on Foreigners concerning the rights of unaccompanied minors, in accordance with the recommendations of the working group established to consider the provision of services to the immigrant community. Work in that area was ongoing and updated information would be provided in the next report. Although the Act on Foreigners contained no specific reference to the Committee's concerns, it repeatedly mentioned the Convention.

20. The new provisions contained in the Act on Foreigners restricting the right of family reunification had been drafted following extensive consultation with law enforcement officials, who had considered the means of combating forced marriages under existing legislation to be insufficient. If the woman concerned was under the age of 24, the Immigration Office conducted an interview to assess the specific circumstances of the case. Also, a number of organizations provided services for female victims of domestic violence, including women's shelters.

21. Ms. BRODDADOTTIR (Iceland) said that, to her knowledge, the number of Icelandic language courses offered was sufficient to meet the needs arising in the context of applications for residence permits. However, the quality of those courses needed improving and the University of Iceland, in cooperation with the Ministry of Justice, the Ministry of Social Affairs and the Ministry of Education, had recently presented a draft proposal to that end. Large

companies generally offered language courses to their foreign-born employees free of charge within regular working hours. However, in cases where the employer did not provide such a service, the costs incurred by language courses were borne by the participants themselves. Of the approximately 290,000 people living in Iceland, some 20,000 were foreign-born. That figure included foreign-born Icelandic nationals; between 15,000 and 16,000 Icelandic residents were of foreign origin.

22. Ms. ARNADOTTIR (Iceland) said that the provisions of international instruments to which her country was a party, including the Convention, were directly applicable at the national level. No specific legislation was required to incorporate those provisions into domestic legislation. Relevant case law showed that such provisions had been repeatedly invoked in domestic court proceedings. To her knowledge, the Ombudsman had received no claims of discrimination based on ethnic origin.

23. Her Government was fully aware of the problem of human trafficking. Her delegation had discussed the issue at great length with the Human Rights Committee at its eighty-third session in New York. While strict border controls made it possible to intercept trafficked persons, it was difficult to identify the perpetrators. The victims often refused to cooperate since they did not necessarily consider themselves to be victims of a crime. Icelandic legislation codified human trafficking as a punishable offence. Iceland participated in Nordic-Baltic cooperation on the issue of human trafficking and had undertaken to present a relevant action plan by the end of 2005.

24. Mr. BOYD said that the requirement for foreign-born students to prove their financial self-sufficiency on reaching the age of majority might lead those students to abandon their studies prematurely. The Government and society therefore had a collective responsibility to support social services that assisted vulnerable foreign-born students. He wished to know whether work permits were issued in several languages. The delegation should clarify the review procedure in cases of appealed expulsion orders.

25. Ms. ARNADOTTIR (Iceland) said that appealed decisions by the Ministry of Justice or the Immigration Office were subject to a limited review procedure aimed at establishing whether the decision had been adopted on the basis of the parameters of existing legislation. Most official documents were available in at least Icelandic and English. It was thus unlikely that work permits would be issued exclusively in Icelandic.

26. Ms. BRODDADOTTIR (Iceland) said that the requirement of providing proof of financial self-sufficiency only applied to foreign-born students who did not hold a residence permit by the time they reached the age of majority; in practice, those cases were extremely rare.

27. Mr. THORNBERRY asked what kind of consideration had been given to the special needs of children of foreign-born parents who did not speak Icelandic when they started school. He wondered whether information on the culture of origin of such children was taken into account in the education they received.

28. Ms. ARNADOTTIR (Iceland) said that paragraph 6 of Iceland's sixteenth periodic report (CERD/C/384/Add.1) had addressed those issues. Particularly with regard to refugee children, schools emphasized the importance of competence in the mother tongue and encouraged families to use it at home. In fact, basic competence in a child's mother tongue was considered a prerequisite for learning Icelandic. Numerous pilot projects in kindergartens and primary schools promoted cooperation between teachers and the foreign-born parents of pupils, particularly in the area of language learning.

29. Mr. THORNBERRY welcomed Iceland's recognition of the mutually reinforcing nature of competence in the mother tongue and in the host-country language. It was often assumed that the two men were in opposition to each other, whereas in fact, increasing knowledge of the mother tongue was actually an excellent way to approach learning a new language.

30. Mr. SICILIANOS (Country Rapporteur) enumerated the principal issues that had been raised during the meeting. They had formed the basis for a fruitful exchange between the delegation and the Committee, and he thanked the delegation for its participation.

31. The CHAIRMAN said that the Committee looked forward to receiving Iceland's next periodic report and to continuing the dialogue with it.

32. Mr. ARNADOTTIR (Iceland) thanked the Committee for its efforts to assist her country.

33. The delegation of Iceland withdrew.

Review of the implementation of the Convention in States parties whose periodic reports are seriously overdue

Seychelles

34. Mr. PILLAI (Country Rapporteur) said that, regrettably, consideration (see CERD/C/SR.816) of the fourth periodic report of Seychelles (CERD/C/128/Add.3), the most recent report submitted by that State party, had taken place without the participation of any government representative. The Committee had also expressed regret about the general nature of the report and had hoped that the next report would provide a more detailed description of the Government's policy on racial discrimination. The Committee had referred to article 4 of the Convention and stated that even if, as claimed by Seychelles, there was no racial discrimination in the country, no one could predict whether unfortunate events might alter that situation in future. The Committee had further pointed out that it was the duty of States parties to comply with both the letter and spirit of the Convention. With regard to article 5, the Committee had asked how the property of Seychelles citizens resident abroad was administered.

35. At a subsequent meeting, the Committee had again reviewed implementation of the Convention by Seychelles. It had noted with regret that no report had been submitted by Seychelles since 1986, and that Seychelles had not responded to its invitation to participate in the meeting and to provide it with the information it had requested. The Committee had further

suggested that the Government might wish to avail itself of the technical assistance offered by the Office of the United Nations High Commission for Human Rights (OHCHR) for the purpose of drawing up and submitting as soon as possible an updated report drafted in accordance with the Committee's reporting guidelines.

36. Seychelles had ratified seven human rights treaties with reporting obligations, and was also party to a number of regional human rights instruments, such as the African Charter on Human and Peoples' Rights. While it had submitted few periodic reports to any of the United Nations treaty bodies, Seychelles had submitted its first periodic report to the Committee on the Rights of the Child in September 2002. Most recently, it had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in July 2003.

37. After giving a brief outline of the historical, geographical and social situation of Seychelles, he drew the Committee's attention to the lack of information provided in its most recent periodic report, submitted in 1986. The Committee had reviewed the situation in 1997 and recommended that Seychelles should meet its reporting obligations, if necessary with technical assistance from OHCHR. Given that Seychelles had not responded to that recommendation, he proposed that the Committee should write to the Government underlining the need for it to submit a report and should include the list of questions he had prepared. That list had been based on information provided in the previous report and the Committee's recommendations formulated after the 1997 review.

38. Mr. AMIR said that he knew Seychelles to be a peaceful country, where there were few if any problems between racial or ethnic groups. The State party's failure to report could only be a result of insufficient financial and other resources. In those circumstances, he supported the proposal to suggest that Seychelles should ask for technical assistance from OHCHR.

39. Mr. AVTONOMOV said that the letter to the Government of Seychelles should indeed suggest that it request technical assistance, but the Committee also had a duty to remind the State party of its reporting obligations and the need to re-establish a dialogue with the Committee, conditions to which it had subscribed on ratifying the Convention.

40. Mr. SICILIANOS recalled that in the past the Committee had suggested that a State party should request technical assistance, but in fact OHCHR had subsequently been unable to offer such assistance. The secretariat should therefore ensure that technical assistance would be available to Seychelles before the Committee wrote to the Government, in order to maintain the Committee's credibility.

41. Mr. THORNBERRY said that given Seychelles' previous claim that racial discrimination was not a problem it had encountered, it could serve as a model of good practice for the Committee. However, without more information it was impossible to judge the merits of such a claim. He therefore supported Mr. Pillai's proposed course of action.

42. Mr. de GOUTTES said he found it difficult to understand why Seychelles had been unable to submit a report, since it had managed to submit a report to the Committee on the Rights of the Child in 2002. Given that the offer of technical assistance had been made in the 1997 conclusions, it could not now be retracted.

43. Mr. ABOUL-NASR asked whether the State party had been refused technical assistance on a previous occasion.

44. The CHAIRMAN said that that had not been the case. Rather, there had been difficulties in the past in securing funds for technical assistance programmes as a result of abuse of the technical assistance system by some countries and some treaty bodies. He therefore agreed that it would be prudent to verify that such assistance would be available before offering it to Seychelles.

45. Mr. HERNDL agreed that the Committee should take action to convince the Government of the need to respond to its international obligations. Dialogue should be established with the representative of Seychelles in New York, where the State party had a Permanent Mission. He recalled the High Commissioner's comments in her Plan of Action, paragraph 89 of which highlighted the need to strengthen the United Nations treaty bodies and to ensure "a more effective overall effort to address implementation gaps". Paragraph 131 stressed that the "work of the treaty bodies and special procedures will be fully integrated into OHCHR dialogue and engagement with countries". It was therefore quite legitimate that the Committee should request the High Commissioner's representative in New York to establish such a dialogue with the representative of Seychelles, and to impress on the Government the importance of complying with its reporting obligations.

46. Mr. ABOUL-NASR supported the idea of establishing personal contact with the representative of Seychelles. He asked the Chairman whether he had attended the General Assembly in New York and, if so, whether he had raised the question of non-reporting States.

47. The CHAIRMAN said that he had not visited the United States for some time. He had, however, attended most of the meetings of chairpersons of the human rights treaty bodies and the inter-committee meetings of the treaty bodies, reports of which were available to Committee members. It had been clear from those meetings that other Committees had similar, and in some cases greater problems with non-reporting States.

48. Mr. TANG Chengyuan said that the crux of the matter was the availability of funds. The State party should not have to pay for the visit of an expert to assist in compiling reports; OHCHR should fund such a visit. It would also be interesting to consider the possibility of establishing contact with the representative of Seychelles who had attended the Commission on Human Rights session in Geneva in the spring.

49. The CHAIRMAN thanked Mr. Pillai for his work on Seychelles, and concluded that the Committee had reached the consensus that the list of questions should be sent to the Government, together with a letter outlining the Committee's concern at the State party's failure to meet its reporting obligations. Every effort would also be made to establish personal contact with a representative of Seychelles.

50. He thanked UNHCR for the consistent attendance of its representatives at the Committee's meetings and commended that organization for its cooperation with the Committee. It was an example that other organizations should make every effort to follow.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

51. The CHAIRMAN drew Committee members' attention to a letter from the Chairperson of the Working Group on the Administration of Justice, which had been sent within the framework of cooperation between the Committee and the Sub-Commission on the Promotion and Protection of Human Rights concerning the Committee's draft general recommendation on the prevention of racial discrimination in the administration and functioning of the system of criminal justice.

52. Mr. SICILIANOS said that the right to an effective remedy, which was provided for in article 6 of the Convention, had been invoked in nearly all the communications received by the Committee. Numerous questions had arisen regarding the possibility of invoking article 6 in conjunction with article 5, article 2 or article 4. It might be useful for the Committee to understand how the right to an effective remedy functioned in the case law of other treaty bodies. He suggested that the Committee should respond positively to the Chairperson's offer of cooperation, asking him to undertake a study on the right to an effective remedy that would include a comparison of the effect given to that right by other treaty bodies.

53. Mr. de GOUTTES supported that suggestion. The scope of the study in question would be much broader than that of the Committee's draft general recommendation in that it concerned the right to an effective remedy from all judicial perspectives - not only from that of criminal justice.

54. Mr. ABOUL-NASR asked why the Committee had not considered conducting the study itself.

55. Mr. THORNBERRY said that the Committee did not necessarily have the same capacity as the Sub-Commission for conducting such a study. He supported the idea of a broader study relating to the administration of justice. Given the amount of attention the Committee had been paying in recent years to the issue of indigenous rights, he hoped that the study would include a chapter on the specific situation of indigenous peoples in such matters as land loss, deprivation of subsistence and denial of cultural rights, and on the reparation provided in such cases. The Committee could integrate into any future efforts it undertook in that area the experience afforded by the Inter-American, European and African systems. The most recent study prepared by the Sub-Commission had been extremely helpful to the Committee in its work on non-citizens.

56. Mr. SICILIANOS suggested that the Committee should accept the offer and request a study from the Sub-Commission. Although the study would consider article 6 of the Convention and the Committee's practice in that regard, it would also describe the practice of other United Nations treaty bodies whose conventions guaranteed the right to an effective remedy.

The Committee could also ask the Sub-Commission to pay particular attention to the systems of justice of indigenous peoples and to the functioning of the right to an effective remedy in those systems. The Committee's cooperation with the Sub-Commission over the past few years had yielded valuable input from the Sub-Commission on non-citizens and on descent-based discrimination.

57. Mr. AVTONOMOV said that it was helpful to obtain the opinions of others; he consequently welcomed the offer by the Chairperson of the Working Group. The Sub-Commission sometimes had the opportunity to call upon the services of eminent experts in particular spheres of law who could be of great use to the Committee.

58. Mr. de GOUTTES said experience had shown that the Committee and the Sub-Commission often dealt with similar issues without realizing it. The Committee had everything to gain from developing a closer working relationship with the Sub-Commission.

59. Mr. PILLIA said that the Working Group on the Administration of Justice was proposing to examine the issue of the implementation, in practice, of the right to remedy. A study of that kind by the Working Group would help the Committee to understand the work that lay ahead of it by considering the broader aspects of the administration of justice. He supported the idea of designating that as an area of cooperation between the two bodies.

60. The CHAIRMAN said that strengthening interaction and dialogue between treaty bodies was consistent with what had been proposed in the report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and with what had been proposed at the past three meetings of chairpersons of the human rights treaty bodies. He took it that there was a consensus on the proposal to request that a study should be undertaken by the Sub-Commission.

61. It was so decided.

The meeting rose at 1 p.m.