



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

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Summary record of the 2038th meeting

Held at the Palais Wilson, Geneva, on Thursday, 19 August 2010, at 3 p.m.

Chairperson: Mr. Kemal
later: Mr. Prosper

Contents

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

Eighth and ninth periodic reports of Estonia

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The meeting was called to order at 3.05 p.m.

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

Eighth and ninth periodic reports of Estonia (CERD/C/EST/8-9; CERD/C/EST/Q/8-9)

1. *At the invitation of the Chairperson, the delegation of Estonia took places at the Committee table.*
2. **Ms. Reimaa** (Estonia) said that the Estonian integration strategy for 2008–2013, adopted on 11 June 2009, consisted of a goal-oriented sectoral development plan. The Ministry of Culture was in charge of implementing the strategy and coordinating activities to achieve its goals. Specific indicators had been developed to measure the number of people passing the Estonian language proficiency test, the number of people with undetermined citizenship, trends in attitudes towards people of other nationalities, including how far foreigners were trusted, as well as income gaps between people of different nationalities, among other variables.
3. Under the integration strategy, the Minister of Culture had to report regularly to the Government on the funds used and results obtained for each indicator during the period in question, among other matters. The first report was due in August 2010. The results presented in that report would cover the period 2008–2010 and would serve as a basis for the development of the next implementation plan for 2011–2013. The process would be repeated until 2014, when the final assessment of the integration strategy was to be made. The necessary statistics would be obtained from various sources, including Statistics Estonia.
4. The Office of the Chancellor of Justice kept statistics on the cases brought before it that had been declared admissible or inadmissible, as well as on the cases that it had taken up itself. Complaints of racial or ethnic discrimination were handled through conciliation proceedings. Such complaints were estimated to constitute 0.2 per cent of all the cases judged admissible in 2007, 0.4 per cent in 2008 and 0.2 per cent in 2009.
5. Most complaints of ethnic discrimination concerned the use of the official language in public institutions, particularly prisons. The Chancellor of Justice had had to deal with numerous submissions by detainees complaining that prisons and the offices of the Ministry of Justice only accepted documents drafted in Estonian and refused to have replies translated into the languages of detainees. After studying the administrative practices of prisons and other public institutions regarding the acceptance of requests in Russian, the Chancellor of Justice had found that many breaches had been committed and had issued recommendations for remedying the situation.
6. State budget constraints made it impossible to increase the financial and human resources allocated to the Office of the Chancellor of Justice, let alone to open branches throughout the country. The Chancellor of Justice had himself held that formulating binding proposals and taking coercive measures to force compliance were not normally within the remit of an ombudsman.
7. Admittedly, article 151 of the Criminal Code on inciting hatred had proven ineffective inasmuch as it was applicable only when such incitement endangered the life, health or property of another person; and establishing that connection was difficult. Acts stemming from incitement to hatred were usually classified either as offences against persons or property, or as breaches of public order. In either case, no statistics on the nature of such offences, in other words, whether they constituted incitement to hatred, were kept by the criminal justice system. The Ministry of Justice was currently working on an amendment to the Criminal Code whereby incitement to hatred would be punishable as

such, regardless of whether an attempt on the integrity of persons or property had been involved. Under the amendment, the use of hate speech would be considered an aggravating circumstance.

8. The National Minorities Cultural Autonomy Act had not been amended since 2007, but a working group, comprising members of the Riigikogu (parliament), the Ministry of Justice, the Ministry of Culture and universities, as well as representatives of national minorities, had been established by the Ministry of Culture to propose amendments that would remove the elements hampering the functioning of autonomous cultural authorities lacking proper legal status. The revised act should identify the national minorities in Estonia more clearly and define their rights more precisely.

9. According to the Government, the rights of national minorities were guaranteed in current legislation, especially the Constitution, which established the equality of all citizens. Estonia was moreover party to the Framework Convention for the Protection of National Minorities of the Council of Europe.

10. On 27 July 2010, the total number of convicted prisoners in Estonia was 2,747, of whom 1,553 were Russian-speaking and 882 of undetermined citizenship. The high proportion of persons of undetermined citizenship among the prison population could be attributed to the fact that such persons were not well integrated into society and generally had no steady income, so that no other form of punishment was available in their case. In the 1990s, the most serious crimes punished by long prison sentences had mostly been committed in the north of the country where the Russian-speaking population was particularly large. The people convicted of those offences were still serving their sentences. Among those sentenced more recently, the proportion of persons of undetermined citizenship was almost the same as in the population at large.

11. Estonian language courses were given in prisons, and once a year prisoners had the possibility of taking the Estonian proficiency test, which all applicants for Estonian citizenship had to sit. The economic crisis had hit the north-east of the country harder than other regions, forcing many firms to shut down. As far as unemployment among members of minorities was concerned, those who did not have a good command of Estonian were statistically less likely to find a job. A labour survey had shown that the employment rate of minorities living in Estonia was no different from that of the rest of the population provided that they were proficient in Estonian. Measures to boost employment among at-risk groups thus consisted in offering language courses to those who needed them.

12. In 2010, the Ministry of Social Affairs had introduced measures to create jobs and reduce long-term unemployment, including wage subsidies and job training, as well as measures to encourage social exchanges, such as the promotion of volunteer work and the creation of professional associations. Wage subsidies, which had been intended to reintegrate 5,000 unemployed people into the labour market had already been granted to 6,100 people, in part because the eligibility criteria had been loosened. The time that previously employed people had to wait to be eligible for the subsidy had been halved from 12 to 6 months, and in the case of young people from 6 to 3 months. The Ministry of Social Affairs was also reviewing the law on labour market services and labour benefits so as to improve job counselling and employment services and help the unemployed to join the labour market.

13. Under the integration strategy, several information campaigns had been carried out in 2008–2009 to raise awareness of racism and equality issues among employers, including the promotion of multiculturalism in the workplace. Conferences on the Equal Treatment Act had also been arranged for the staff of Estonian companies, and events had been organized to promote tolerance and equality among employers. Radio 4, the national Russian-language radio station, had transmitted a programme on the topic that had been

rebroadcast 11 times. A survey of employers had been conducted to identify the obstacles to hiring foreign workers. Furthermore, 21 focal points had been appointed to promote tolerance and cooperation. Human rights organizations, such as the Human Rights Centre, the Human Rights Institute and the Integration Centre of Ida-Viru county, had also received support under the strategy. The Ministry of Social Affairs participated in the Human Rights Centre's campaign to promote equal treatment and combat intolerance, funded under the "enrichment through diversity" programme.

14. Members of the security forces responsible for preventing the illegal activities of extremist groups or individuals were trained to spot acts of racism, racial discrimination, xenophobia and other acts of intolerance in their initial and continuous training. Other law enforcement officers underwent more general training.

15. The police held meetings with different target groups to inform them of the measures taken to fight criminal activity and prevent racism, racial discrimination and xenophobia. The security police was the main body responsible for preventing and suppressing illegal activities by extremist groups. Members of the security police, whether new recruits or experienced officers, received specific training in how to recognize and handle cases of racism, racial discrimination and xenophobia. Between 2006 and 2009, the security police had not charged anyone under the Equality Act. Similarly, no complaints of any acts of racism, racial discrimination or xenophobia had been filed against police officers.

16. The main bodies representing minorities were the Ethnic Minorities Council, the Council of Young People Belonging to Ethnic Minorities and the Nationalities Roundtable and, at the local level, the Ethnic Minorities Roundtables of Ida-Viru county and of Pärnu and the Nationalities Forum of Tallinn. Representatives of ethnic minorities had been extensively consulted in the execution of the integration strategy. They would also be invited to make suggestions for the strategy's new implementation plan for 2011–2013.

17. Several measures had been taken to encourage persons of undetermined citizenship to apply for Estonian nationality. Campaigns explaining the advantages of naturalization had been conducted. In November 2008, the Citizenship and Migration Board had conducted a survey of children aged 0 to 14 years of undetermined citizenship. In December 2008, information on the conditions that needed to be met to obtain citizenship had been sent to all the families of the children concerned. In February 2009, a new information campaign had been carried out targeting young people aged between 15 and 20 years. In all, 4,880 people had been contacted, and by 1 July 2010, 217 had applied for Estonian citizenship. The police and border guards administration had focused its efforts on 5,500 children born between 1990 and 2010. The process for checking that the children met the conditions required for obtaining Estonian nationality was due to be completed in August 2010, and information on how to proceed would then be sent to parents. The authorities had sometimes contacted people by telephone to explain to them directly how to acquire Estonian nationality. The police and border guards administration also explained to parents of undetermined citizenship how their children under the age of 1 year could obtain Estonian nationality without having to apply for a residence permit. The number of persons of undetermined citizenship had fallen noticeably, from 136,000 in 2006 to 99,173 by 7 July 2010.

18. Estonia did not intend to amend article 48 of its Constitution which prohibited foreigners from belonging to political parties. The article was not discriminatory making the enjoyment of political rights dependent on nationality was a widely accepted practice. Estonians and citizens of the European Union permanently resident in Estonia were free to join political parties, while non-citizens were permitted to participate in local political life. In any event, non-citizens could apply for nationality in order to join political parties.

19. According to the Citizenship Act, proficiency in the Estonian language was one of the conditions for naturalization. By learning Estonian, non-citizens demonstrated their desire to fully integrate into Estonian society. Article 8 of the Citizenship Act provided that non-citizens who had completed primary, secondary or further education in the Estonian language did not need to pass the language proficiency examination that formed part of the naturalization procedure. In 2008 and 2009, Estonia had organized a wide range of activities that had enabled a large number of non-Estonian speakers to take free courses in the language.

20. Obligatory education in Estonia covered nine years of schooling. Under the Basic and Secondary Education Act, local governments decided the language of instruction in basic schools and funded all schools regardless of the language chosen. Estonia had two types of primary schools: those that taught in Estonian and those that taught in Russian (accounting for 19 per cent of pupils). Teaching in Estonian was not obligatory in primary schools. In 2007, the State launched a programme under which teaching in Russian-speaking schools would be partly in Estonian. From 2011/12 onwards, at least 60 per cent of subjects in all schools would have to be taught in Estonian. In January 2010, the Ministry of Education had introduced new syllabuses for basic and secondary schools that varied according to whether the schools were Estonian- or Russian-speaking. In Russian-speaking schools, for example, Russian was taught as the mother tongue and priority was given to Russian literature. The new syllabuses stressed cultural diversity, and all teaching had to promote tolerance of other cultures and ethnic groups.

21. All children in Estonia had access to education, and attendance at the local State school was obligatory. Roma children had the same schooling opportunities as other children and did not receive any special treatment. According to the statistics available, 15 children in the general school system had indicated that their mother tongue was Romany. Seven of them were attending a school for children with special needs. The decision to send a child to such a school was taken together with the parents upon the recommendation of an advisory committee of recognized experts. The Ministry of Education had begun compiling a register of schools attended by Roma children, measuring their performance and assessing the support provided by the school system. The results of the exercise would be published on 17 December 2010.

22. **Mr. Thornberry** (Country Rapporteur) said that Estonia had a population of 1,300,000 inhabitants, but that the last census went back to 2000. He asked whether censuses were conducted every 10 years and, if so, whether the 2010 census had already taken place. Estonia had ratified most international and regional human rights instruments, including the International Labour Organization (ILO) Convention (No. 111), on Discrimination (Employment and Occupation) and the Council of Europe Framework Convention for the Protection of National Minorities. On 21 July 2010, Estonia had made the declaration provided for in article 14 of the Convention. On the other hand, it had yet to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

23. He noted with satisfaction that the International Convention on the Elimination of All Forms of Racial Discrimination, like the other international instruments the State party had ratified, formed part of the Estonian legal system and that article 123 of the Constitution provided that, in the case of a conflict between national and international instruments, the latter would take precedence. In that regard, he wished to know whether the Convention had been directly invoked within domestic courts. The Equal Treatment Act covered discrimination in its varied forms but did not refer specifically to discrimination on

grounds of language or nationality. He drew the delegation's attention to the Committee's general recommendation No. 30 on discrimination against non-citizens. The Gender Equality Commissioner was responsible for enforcing the Equal Treatment Act, even though the Chancellor of Justice was authorized to settle any conflicts involving discrimination through conciliation proceedings. Few complaints of discrimination had been brought before the Chancellor for several reasons: ignorance of the Chancellor's activities; the absence of a permanent focal point in Ida-Viru where many Russian-speakers lived; and insufficient human and financial resources. He would like to know the Estonian delegation's views on the matter.

24. The new integration strategy for 2008–2013, drawn up by the Minister for Population and Ethnic Affairs, included the goal of boosting the teaching of Estonian and the national identity of Estonia (CERD/C/EST/8-9, para. 37). Nevertheless, it was surprising that a department of the Ministry was authorized to visit private firms to determine the proficiency of their workers in the Estonian language and to levy fines or order the dismissal of workers whose Estonian language skills were not up to par. He asked whether the Estonian language was threatened to such an extent as to warrant such a level of protection and whether the punitive aspects of the language policy really promoted learning of the language.

25. The 1993 National Minorities Cultural Autonomy Act, referred to in paragraph 320 of the State party's report, was based on a very narrow concept of minority and did not clearly define the legal status of autonomous minorities. The Estonian authorities should revise the legislation in force to ensure that the difference between the rights of recognized and of unrecognized minorities did not constitute a potential source of discrimination.

26. Estonia was not the only country in Europe in which the Roma lived in difficult circumstances and were reluctant to identify themselves as Roma for fear of stigmatization. The Roma faced serious problems in education, mainly because they grew up in an environment that was not very conducive to learning, because school absenteeism was common, and because very few teachers spoke their language or were sensitive to their culture. The results of the survey to determine the real number of Roma children in Estonia (para. 249) were keenly awaited.

27. As to Muslims, the Rapporteur wished to know why there was no mosque in Tallinn given that several Muslim communities, such as the Tatars and Azeris, had been living in Estonia for many years.

28. With regard to racially motivated crimes, he noted with interest that, between 2002 and 2007, not a single complaint had been filed in the country under article 151 of the Criminal Code, concerning incitement to hatred. It was surprising that very few offences or crimes had been investigated or resulted in prosecutions when the violence of extreme right-wing groups had been on the rise for several years. The absence of complaints was not necessarily a positive sign, and it was important that the police kept due records of all incidents viewed by victims as acts of racial or ethnic discrimination. It was also essential that racial motivation should be identified as an aggravating circumstance in the Criminal Code.

29. As to the repression of ideas based on racial superiority or hatred (article 4 (a) of the Convention), he was astonished that under article 151 of the Criminal Code only activities publicly inciting hatred, violence or discrimination that endangered the life, health or property of a person were punishable by law (CERD/C/EST/8-9, para. 48). The definition was far too narrow; neither the intention nor the consequence of such acts was referred to in article 4 of the Convention.

30. *Mr. Prosper took the Chair.*

31. Although he appreciated that the scope of article 151 included acts committed by legal entities, it was a pity that the article could not be invoked against media that broadcast hate speech unless it resulted in “serious consequences” (CERD/C/EST/8-9, para. 48). It was essential to restore the possibility of prosecuting persons under article 151 for spreading hatred through the media even when such action did not endanger a person’s life, health or property. Estonia needed to revise its Criminal Code to bring it fully into line with article 4 of the Convention.

32. He had been pleased to learn that the Holocaust was an obligatory topic in primary- and secondary-school syllabuses but had also noted that many publications denying the Holocaust were circulating in Estonia and that they had sold rather well in recent years. The State party should deal with cases of discrimination involving neo-Nazi groups in an impartial manner.

33. According to paragraph 100 of the State party’s report, as at 28 February 2009, there were 109,728 persons with undetermined citizenship in Estonia, but the proportion of such persons among the Estonian population had steadily decreased. He asked the delegation to comment on that statement in light of the information that the naturalization rate had slowed down in 2009, with only 1,669 persons taking up citizenship, the lowest number since Estonia became independent. The extremely high number of persons of undetermined citizenship was still very worrying, especially as they had apparently been living in the country for several generations and Estonia did not permit its citizens to hold dual nationality. The State party was strongly encouraged to remedy the situation by ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

34. **Mr. Diaconu** noted with interest that the State party had enacted many new laws consistent with the recommendations made by the Committee following the examination of Estonia’s previous periodic report and in accordance with international human rights law. He particularly welcomed the adoption of a law specifically prohibiting discrimination in public places, which was an unusual measure, and the fact that all permanent residents in the country, whether Estonian citizens or not, could participate in local government council elections (CERD/C/EST/8-9, para. 68).

35. With regard to the implementation of article 4 of the Convention and the criminalization of racially motivated acts and pronouncements, it was unacceptable that article 151 of the Criminal Code only punished acts of public incitement to hatred, violence or discrimination where they endangered a person’s life, health or property (CERD/C/EST/8-9, para. 48). Noting that article 4 of the Convention prohibited discrimination unconditionally, he wondered whether the very small number of complaints of discrimination filed in Estonia was not to be explained by the terms of article 151 in the Estonian Criminal Code, whereby only acts proven to have threatened a person’s life or property were considered discriminatory. The Ministry of Justice was apparently aware of the problem and had decided to draw up new wording for the article; and it would be strongly advised to restore the possibility of prosecuting persons under article 151 for broadcasting hate speech, even when such acts did not endanger a person’s life, health or property.

36. Article 152 of the Criminal Code, on violations of the principle of equality, was also not fully in compliance with the Convention because it provided only that granting unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status was an unlawful restriction of a person’s rights (paragraph 52 of the State party’s report), whereas article 1 of the Convention prohibited not only preferences, but also distinctions, exclusions and restrictions. He wished to know whether the Convention could be directly

invoked before Estonian courts and, if so, he wished to have some examples of the relevant case law.

37. The number of persons of undetermined citizenship living in the country, apparently 109,728 in 2009, was far too high. Paragraph 99 of the State party's report stated that the main reason why people did not apply for citizenship was a lack of motivation, derived in part from the fact that persons with undetermined citizenship who were long-term residents of the European Union were guaranteed freedom of movement in countries that had signed the Schengen agreement. He wondered, however, how persons with undetermined citizenship, who were by definition stateless and had no passport or travel documents, could move freely around Europe. The State party needed to rectify that situation as soon as possible.

38. He also noted that only paragraph 249 of the State party's report referred to the Roma and then without indicating how many Roma people were living in the country or what their economic, social or cultural status or level of education was. The State party needed to make sure that the Roma were not being segregated by the school system and that Roma children were not taught in special classes.

39. **Mr. Avtonomov** said that the absence of population statistics broken down by ethnic group was highly unfortunate as it made it impossible to obtain a precise picture of discrimination. Usually discrimination was not the result of a deliberate State policy but of a whole set of factors, and in times of crisis the most disadvantaged groups, who were often ethnic communities, were the worst hit. The State party's report also failed to provide data on the number of Roma living in the country and stated only that 300 Roma children were attending Estonian schools (para. 249). He wished to know what proportion of the Roma population that figure represented.

40. Given that the State party acknowledged in its report (para. 63) that some minorities were overrepresented in prisons, albeit without providing figures on the subject, he would like to know why members of the Russian-speaking minority represented an extremely large proportion of the prison population. He would also like to have complete statistics, broken down by ethnic group, on the country's prison population.

41. He had noted with concern that according to the 2010 report of the European Commission against Racism and Intolerance (ECRI) 8 per cent of the population of Estonia was stateless. Noting moreover that proficiency in the Estonian language was the main condition for obtaining citizenship, he wished to know why the State party continued to impose such strict linguistic requirements, knowing that most of the stateless persons were Russian-speakers who had lived in Estonia for generations and did not wish to return to the Russian Federation because they no longer had ties there. According to table 12 of the State party's report, the percentage of Russian-speakers who said they were fully proficient in Estonian had risen from 12 per cent in 1989 to 15 per cent in 2008, but the proportion had been far smaller in the intervening years. He asked the delegation to explain the discrepancy.

42. With regard to the 2007 riots sparked by the dismantling and removal of a statue symbolizing the victory of the Red Army over Nazi occupying forces during the Second World War, he did not understand why a portion of the Estonian population felt such antagonism towards the monument when it had not been put up to honour the Soviet Union, but the soldiers of the Red Army who had died in combat, some of whom, moreover, had been Estonian. Furthermore, both the sculptor and the model had been of Estonian stock. A neo-Nazi rally to commemorate the Estonian Waffen-SS had also been organized in 2007 and probably had some connection with the riots. He wished to receive the delegation's comments on those events. Finally he asked whether the State party intended to ratify article 8 of the Convention.

43. **Mr. de Gouttes** welcomed the adoption of the second integration strategy, for 2008–2013, and asked for more detailed information on its contents. He wished to know whether steps had been taken to set up a national human rights institution in keeping with the Paris Principles since, according to the State party's report (para. 25 et seq.), the Chancellor of Justice did not fulfil that function as defined in those Principles. He asked for more information on the proposed amendment to the Criminal Code, which, according to what the delegation had said in its oral presentation, was already being drafted and would make the racial motivation of any offence an aggravating circumstance.

44. He also wished to know how many people belonging to minorities other than the Russian-speaking community were being held in Estonian prisons. Were the conciliation proceedings described in paragraph 305 and in subsequent paragraphs of the State party's report also used to settle disputes involving racial discrimination? That might be envisaged in cases of less serious offences, such as racial abuse.

45. **Ms. Crickley** said that, having read in a study by the European Union Agency for Fundamental Rights that 91 per cent of the Russian-speaking community living in Estonia said that it did not know how to file a complaint of racial discrimination, she wished to know whether the State party had taken steps to inform minorities of their rights and the means available to them for lodging complaints. Fewer people were taking up Estonian citizenship than in the past, and she wondered whether the authorities intended to take measures to stem that decline. She also asked whether the second integration strategy included educational activities about the minorities living in the country, including the Russian-speaking minority, and what measures to combat racism against the Roma had been implemented in Estonia, which, as a member of the European Union, could apply for assistance with such efforts. Finally, she requested disaggregated statistics on discrimination against migrants and against women belonging to the Roma and Russian-speaking minorities, as well as information on the measures to combat that form of double discrimination.

46. **Mr. Peter** said that documents and reports on Estonia showed that antagonism between Estonians and members of the Russian-speaking minority was as high as it had been in 1991. He asked whether the Government had adopted a strategy to bring the two communities together and promote their peaceful coexistence. He wished to know whether the founding of parties on the basis of membership of a given ethnic group was permitted in Estonia. Given that the Roma continued to lag far behind the rest of the population in terms of employment and education and that Estonia was the most prosperous of the Soviet republics that gained independence after the fall of the Berlin wall, he could not understand why the authorities did not allocate more resources to activities to improve the Roma's situation. Given the rise of neo-Nazi movements in the country, he wished to know whether the authorities intended to take targeted measures to curb the phenomenon. As the second integration strategy was not published on the Estonian Government website, he asked how the document was publicized in the country. Finally he asked the delegation to explain what was meant exactly by the term "e-military" which was used in certain websites on Estonia.

47. **Mr. Amir** wished to know whether the State party was willing to accept the idea that the Roma should be fully integrated into economic, social and cultural life and enjoy freedom of movement and the right to settle in Europe.

48. **The Chairperson** asked the delegation to provide a general picture of Estonian society that included a description of the living standards of each of the groups making it up and indicated whether segregation based on place of residence existed in the country.

49. **Ms. Reimaa** (Estonia) said that updated statistics on the Roma population living in Estonia were not available but that the census scheduled for 2011 should fill the gap. The Roma minority consisted of between 500 and 700 persons. The number fluctuated because

they moved back and forth between Estonia, Lithuania and the Russian Federation. The Estonian Roma had the particular feature of not living in the capital, but in small towns near the border with Lithuania and in the western part of the country. They were represented by three associations, grouped together under one umbrella organization forming part of the Estonian Union of National Minorities. The few Roma children attending special schools were doing so at their parents' request and for financial reasons as the schools provided free meals. The authorities expected to have statistics on the employment and school attendance rates of the Roma in the near future and to be publishing the corresponding report before the end of 2010.

50. A whole series of projects prepared in collaboration with Finnish Roma associations were being implemented, the Ministry of Culture had launched various State-sponsored cultural projects, and the Ministry of Education and Science was funding a number of studies on the Roma, as well as projects to improve their situation.

The meeting rose at 6 p.m.