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КОМИССИЯ ПО ПРАВАМ ЧЕЛОВЕКА

Шестьдесят вторая сессия

Пункт 6 предварительной повестки дня

**РАСИЗМ, РАСОВАЯ ДИСКРИМИНАЦИЯ, КСЕНОФОБИЯ  
И ВСЕ ФОРМЫ ДИСКРИМИНАЦИИ**

**Доклад Специального докладчика по вопросу о современных формах расизма,  
расовой дискриминации, ксенофобии и связанной с ними нетерпимости**

**Дуду Дьена**

**Добавление**

**Миссия в Швейцарию: предварительная записка\***

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\* Настоящая предварительная записка распространяется на языке представления и на английском языке.

### **Preliminary note**

#### **OBJECTIVE AND PLAN OF THE VISIT**

1. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited Switzerland from 9 to 13 January 2006. The main objective of this mission was to assess the situation as regards racism, racial discrimination and xenophobia, as well as the policies and measures adopted by the Government to combat racism, racial discrimination and xenophobia.
2. In the course of his mandate, the Special Rapporteur visited three of the country's language regions in order to achieve a better understanding of the real situation there. In the townships of Bellinzona, Berne, Basel and Neuchâtel he met federal and cantonal authorities, who gave him details of the integration and anti-racism programmes run by the Confederation and the cantons. He also interviewed members and representatives of foreign communities and national ethnic, cultural and religious minorities, in order to gather their views and their experience of racism, racial discrimination and xenophobia. In Basel, the Special Rapporteur made a point of visiting a detention centre and an asylum-seekers' border registration centre. He also spoke to asylum-seekers whose applications had been rejected in Solothurn. During his visit, the Special Rapporteur met representatives of non-governmental organizations and other civil society groups, such as employers, trade unions and representatives of various religions and media.
3. The Special Rapporteur wishes to thank the Swiss Government for its invitation, its availability and the cooperation of its departments, as well as for the excellent logistical arrangements for his visit, especially by the Service for Combating Racism of the Federal Department of the Interior. He has doubts, nevertheless, regarding the real meaning of a statement made by the spokesman of a political party, the UDC (Swiss People's Party), following his visit, who said: "It is fair enough for a United Nations representative to criticize us since we are now members of the United Nations, but it is a bit much if the comments are made by a Senegalese." The Special Rapporteur welcomed the reactions of the Federal Department of Foreign Affairs, which deeply regretted the fact that the spokesman of a government party should challenge the competence of a Special Rapporteur of the United Nations, and of the Federal Department of the Interior, whose spokesman said that the comment, which was out of place, showed how ignorant the person was regarding the qualities of African intellectuals. Similarly, the President of the Swiss Confederation, Mr. Moritz Leuenberger, said that he hoped no such remark had ever been made, but if it had, it was to be utterly rejected. In this respect, the Commission on Human Rights might wish to remind the Member States of the United Nations of the principles of the independence of Special Rapporteurs and the ethics of their mandate. The Special Rapporteur intends to go into the matter in more detail in his final report on his visit to Switzerland.

4. During his mission in Switzerland, the Special Rapporteur noted that the Swiss authorities, at both federal and cantonal level, while recognizing the existence of problems related to racism and xenophobia, expressed the view that they were not really serious. The Special Rapporteur also interviewed members of foreign communities and national minorities who reported deep-rooted and persistent manifestations of racism, racial discrimination and xenophobia in Swiss society. He received documents, studies and reports which confirmed these oral testimonies

### **OBSERVATIONS AND PRELIMINARY CONCLUSIONS**

5. The Special Rapporteur noted the central role played by the multiculturalism of Swiss society in the country's problems related to racism and xenophobia. Swiss society, like all other societies in the world, is in the throes of a process of deep-rooted multiculturalism. As in most other European countries, this process is undergoing considerable demographic, ethnic, cultural and religious change. A growing number of foreigners and members of national minority communities no longer originate in the European geographical area but come from other geocultural regions and areas of the world. Swiss society is therefore tending to be more marked than in the past by a high degree of cultural, ethnic and religious diversity. But in Switzerland, like elsewhere, the challenge to the national identity arising from this diversity causes identity-related tensions, and the political, legal and cultural awareness, recognition and treatment of these tensions are the factors which will determine either the construction of multicultural togetherness or the emergence of deep-seated manifestations of racism, discrimination and xenophobia. In view of the general recognition of the existence of manifestations and expressions of racism and xenophobia on the one hand, and of the differing assessments made of the spread and seriousness of racism in Swiss society, the Special Rapporteur proposes to base his own assessment of the intensity and depth of racism and xenophobia on three main considerations: the nature of and responsibility for manifestations of racism, the political will to combat such manifestations and the legal and juridical strategy deployed in the fight against racism and xenophobia.

6. The manifestations and expressions of racism and xenophobia encountered by the Special Rapporteur are related to weighty factors, such as the priority and the treatment given by political platforms to issues concerning the traditional target groups of racism and xenophobia, the problem of national identity faced with the cultural diversity of society, and the way the issue of foreigners, immigrants and asylum-seekers is dealt with. The Special Rapporteur, in both political attitudes and political platforms as well as in some sectors of the media, noted a growing emphasis on rhetoric based on the "defence of national identity" and "the threat of the foreign presence". The electoral success of these platforms reflects the existence in society of a current of political opinion which is favourable to a defence of identity against immigration and hence prone to xenophobic tendencies. In this regard, he received matching, documented testimonies concerning growing manifestations of racism and discrimination targeting foreigners

or nationals of black African origin, as well as communities from the Balkans or from Arab-Islamic and Asian parts of the world.

7. The Special Rapporteur has noted a lack of clarity or political determination in the fight against racism and xenophobia. There are two opposing tendencies in this respect. The establishment of the Service for Combating Racism and the Fund for Projects against Racism and in favour of Human Rights within the Federal Department of the Interior reflects a political will to implement the Durban Programme of Action against Racism. The setting up, moreover, of the Federal Commission against Racism and the Federal Commission for Foreigners, whose members the Special Rapporteur had occasion to meet, shows the desire to involve civil society in this undertaking. This political will is also reflected in the personal commitment and the strong motivation of the members of these commissions, which the Rapporteur was able to appreciate. But there are two significant factors that detract from this political will. On a political level, the lack of any political consensus at the highest level is shown by the proposals to abolish or marginalize these services and mechanisms put forward by political parties represented in the Government. The services and mechanisms concerned are not only deprived of the necessary powers and authority but they also lack the necessary means and resources to implement the Government's official policy in practice.

8. The Special Rapporteur further noted that there was a lack of reliable data and statistics concerning manifestations and expressions of racism, discrimination and xenophobia in Switzerland. The absence of this essential measuring tool makes it difficult to assess the phenomenon and limits the effectiveness of even occasional anti-racism policies, programmes and initiatives. Furthermore, because statistics are not standardized between cantons, whatever data are available are not easy to interpret. Among the diversity of situations and policies, the Special Rapporteur noted the impact on the recognition and treatment of issues related to racism and xenophobia produced by the specific nature of the federal structure, the powers and prerogatives of the cantons and the democratic traditions of referendum voting. It would appear, therefore, that the issue of racism, racial discrimination and xenophobia has not been met with a coherent general approach or a determined and credible national political programme. Switzerland has passed general laws concerning respect for and the promotion of human rights. But the lack of any general national legislation against racism, racial discrimination and xenophobia considerably detracts from the effectiveness of its fight against racism. One illustration of this situation is the relative lack of legislation or remedies against the recurring manifestations of discrimination in employment and housing, which may be considered symbolic social indicators of discrimination. The Special Rapporteur was interested, however, to note the initiatives started in Basel, Bellinzona and Neuchâtel to improve the situation of foreigners and to respond to expressions of racism, racial discrimination and xenophobia. In the same spirit, he also noted, in addition to anti-racist mobilization among trade unions, a certain determination

among employers to combat all forms of racism and discrimination and their position with regard to the vote on naturalization.

9. Having completed his visit, the Special Rapporteur is left wondering about this weakness in the political and legal strategy to combat racism and xenophobia. These doubts appear justified by two marked tendencies. The legislation on foreigners and asylum-seekers, owing to its restrictive and repressive tone, shows a tendency to approach immigration and asylum issues purely from a security point of view and to criminalize foreigners, immigrants and asylum-seekers. The considerable number of acts of police violence with racist and xenophobic overtones against these groups and the judicial and administrative impunity enjoyed, according to the victims, by the perpetrators are alarming signs not only of the influence of a racist and xenophobic culture on this central institution of law and order but also of the failure to supply clear policy guidelines to the police force. The Special Rapporteur nevertheless was interested to note the initiatives taken by the police in Basel, especially their launch of a programme of intercultural training and direct dialogue with representatives of the Black community.

10. The Special Rapporteur will submit his final report and recommendations on his visit to Switzerland with the help of the additional information, reports, studies and documents he has requested from the federal and cantonal authorities and from the communities concerned and civil society, in the light of his preliminary observations.

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