



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
13 August 2019

Original: English

Committee on the Elimination of Racial Discrimination Ninety-ninth session

Summary record of the 2741st meeting*

Held at the Palais des Nations, Geneva, on Tuesday, 6 August 2019, at 3 p.m.

Chair: Mr. Amir

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* No summary records were issued for the 2740th meeting.

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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*)

1. **The Chair** invited Committee members to continue their consideration of reports, comments and information submitted by States parties under article 9 of the Convention, begun at the 2739th meeting (closed).

Combined twenty-second to twenty-fourth periodic reports of Poland
([CERD/C/POL/22-24](#); [CERD/C/POL/Q/22-24](#))

2. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*

3. **Mr. Broilo** (Poland), introducing the combined twenty-second to twenty-fourth periodic reports of Poland ([CERD/C/POL/22-24](#)), said that his Government had made every effort to implement the Committee's previous recommendations, taking them as guidelines in developing its policy on discrimination and in drawing up legislative amendments and disseminating good practices. Combating all forms of discrimination had been on the agenda of at least four interministerial and parliamentary groups. The scope of protection in respect of race, nationality and ethnic origin under the Act on implementation of certain provisions of the European Union in the field of equal treatment was extremely broad, covering areas such as education, the labour market, health care, social security and access to goods and services.

4. The Act of 12 December 2013 on foreigners contained measures to rationalize migration procedures and bring national law into line with European Union and international law. Several of those measures were relevant to the elimination of racial discrimination and the application of the principle of non-refoulement, notably the introduction of temporary residence permits designed to protect, under certain circumstances, foreigners staying in Poland illegally, and particularly their children, and a humanitarian residence permit to safeguard the civil and political rights of persons subject to return procedures. The Act also contained a range of alternatives to detention for use during return procedures. It comprehensively provided for regulation of the possibility of extending the time limit for voluntary departure, and, in certain circumstances, it gave suspensive effect to appeals against return decisions.

5. Due account was taken of the specific needs of persons applying for international protection. The Office for Foreigners provided psychological care and, as part of the Swiss-Polish Cooperation Programme, clinical, epidemiological and sanitary screening was provided at a dedicated, fully equipped health-care facility or "epidemiological filter" in Biała Podlaska, with units designed to accommodate both adults and children.

6. Much progress had been made since 2012 in the approach to detention of migrants, most crucially by the introduction of alternative measures implemented under the Act of 12 December 2013 on foreigners. Conditions in guarded centres for foreigners had improved. Window bars had been removed and more relaxed regimes and rules had been introduced for dealing with persons from vulnerable groups.

7. In the area of education, there was a regulation of the Minister of National Education of 14 November 2007 on conditions and ways of performing tasks by public kindergartens, schools and institutions in order to support the sense of national, ethnic and linguistic identity of the students belonging to national and ethnic minorities and the communities using a regional language. The regulation had been amended to enable minorities and speakers of regional languages to study their own histories and cultures and to give kindergartens more scope to develop Roma students' sense of their ethnic identity.

8. The topics of equal treatment, non-discrimination and racial discrimination were taken up in all training courses for staff in various areas of public service, including the National Labour Inspectorate and the Prison Service. Training programmes had been in place for some years to ensure that the police were properly equipped to respond to hate crimes and to properly deal with victims. Such training had been provided for instance through a workshop on combating racist and xenophobic offences, the Law Enforcement

Officer Programme on Combating Crime (LEOP) and the updated version of LEOP, entitled Training against Hate Crimes for Law Enforcement (TAHCLE). Training in topics relating to discrimination was also provided by the network of police plenipotentiaries for human rights protection.

9. The police also engaged in community outreach. The Police Action Plan 2018–2021, for example, aimed to counteract the promotion of fascism and other totalitarian ideologies and the incitement of hatred based on national, ethnic, racial or religious differences or on lack of religious affiliation. The Bureau for the Fight against Cybercrime had been established in 2016 at General Police Headquarters, and regional police headquarters too had specialized units to fight cybercrime, including through the detection and combating of hate speech on the Internet.

10. The National Prosecutor's Office had in recent years taken action to increase the effectiveness of the prosecution of crimes perpetrated on the basis of racial, religious, national or ethnic hatred or hatred related to the lack of religious affiliation. It constantly monitored such cases, systematically gathering and analysing data on the different forms such crimes took and the circumstances surrounding them, and on perpetrators' modus operandi. Special institutional and organizational frameworks had been created to conduct proceedings in such cases and to protect victims' rights. The public prosecutors assigned to those cases attended training sessions organized by the National School of Judiciary and Public Prosecution, in cooperation with the Organization for Security and Cooperation in Europe (OSCE), under the Prosecutors and Hate Crimes Training programme. Preparatory or pretrial proceedings in respect of hate crimes were taken very seriously and supervised by a senior prosecutor. Any cases in which pretrial proceedings were discontinued were re-evaluated at six-monthly intervals to verify that the criminal procedure had been duly observed. Judges, too, received training in dealing with such cases, including cases covered by the provisions of the Convention. The National School of Judiciary and Public Prosecution had organized training on the subject in 2018 and 2019 and had for instance facilitated attendance by Polish judges and public prosecutors at international conferences and training events on gender equality, gender violence, hate speech and the media, and European discrimination law.

11. In collaboration with the European Programme for Human Rights Education for Legal Professionals (HELP), an e-learning course in Polish, entitled Hate Crime and Hate Speech, had been made available on a Council of Europe platform in 2019. It was addressed to judges, prosecutors and other legal professionals. The course featured information on the thematic scope of the Convention, including States parties' obligations under articles 4 and 6, and on the composition and mandate of the Committee.

12. The Prison Service carried out a wide variety of activities, including staff training courses, to promote tolerant attitudes towards cultural, racial and religious diversity, and it had set up control mechanisms and a complaints procedure to enable it to deal with incidents of racial discrimination. At penitentiary institutions, foreigners were dealt with in a manner that took account of potential communication difficulties and cultural or religious diversity. They were informed of their right to notify another person or body of their whereabouts and to contact their consular representatives. They were also issued with a special manual, available in seven languages, that provided them with basic information on their rights and obligations and on asylum procedures. All prisons were equipped with translation software permitting communication in 29 languages, and staff in direct contact with detained foreigners were provided with language training. In 2016 the Director-General of the Prison Service had issued a new ordinance setting forth the principles governing the conduct and organization of penitentiary work, which for the first time also gave guidance on catering for the specific needs of foreigners in detention.

13. Rehabilitation programmes for detainees had also been put in place with the aim of promoting tolerance and respect for other people's rights and teaching non-aggressive methods of resolving conflicts. Similarly, in-service training of prison officers and other staff included mandatory courses on preventing discrimination, promoting tolerance and identifying the signs of discrimination, torture and harassment. Prison officers were required to carry out their duties in line with international standards and to uphold the principle of equal rights, regardless of gender, race, skin colour, ethnic origin, sexual

orientation, social status and religious or political beliefs. During the reporting period, a mechanism to combat discrimination in the prison service had dealt with a number of complaints from detainees alleging discrimination on the grounds of racial or ethnic background, but none of those complaints had been substantiated. In 2017, the Director-General of the Prison Service had established the functions of a plenipotentiary for human rights protection and equal treatment. Among other tasks, the plenipotentiary would disseminate the jurisprudence of the European Court of Human Rights on related issues.

14. The Government's commitment to preventing racial discrimination was also demonstrated by the activities of the National Labour Inspectorate, which distributed relevant information, guidelines and handbooks and monitored recruitment advertisements to ensure that they complied with legislation governing equal access to employment. In cooperation with the International Organization for Migration (IOM) and the Ministry of the Interior and Administration, the Inspectorate also implemented projects intended to uphold the rights of foreign migrants and to combat discrimination against them.

15. A sports development programme had been introduced in 2015 inter alia with the aim of preventing discrimination in sports, and funding from the Ministry of Sport and Tourism to support sports associations was linked to compliance with a code of good governance, which required associations to take legal and other measures to prevent and combat discrimination in their field of activity.

16. Non-governmental organizations (NGOs) played a key role in combating racial discrimination, not only by supporting the efforts taken by the Government, but also by highlighting other areas where action was required to prevent racism, xenophobia and intolerance. The introduction of Roma education assistants at schools was one example of cooperation between the Government and organizations representing minorities. It was intended to promote the employment of Roma persons and increase the level of education in the Roma community. NGOs working in the field of human rights had had the opportunity to view the draft version of his country's periodic report, and their comments had been taken into consideration during the process of finalizing the text. Lastly, he reaffirmed his Government's commitment to the obligations arising from the international and regional human rights conventions to which Poland was a party and to ensuring equal treatment and combating discrimination on the grounds of racial, national or ethnic background.

17. **Ms. McDougall** (Country Rapporteur), welcoming the detailed information provided by the State party in its periodic report, said that she wished to draw the delegation's attention to the Committee's previous concluding observations, issued in 2014 ([CERD/C/POL/CO/20-21](#)), and specifically to the recommendations it had made with regard to strengthening human rights bodies, including the Office of the Commissioner for Human Rights. She invited the delegation to comment on reports that the financial resources allocated to the Commissioner's Office were insufficient for the fulfilment of its mandate and that the Commissioner's statutory powers were circumscribed. In that regard, she noted with concern that public prosecutors had refused to instigate investigations and launch relevant proceedings in several cases involving hate speech and hate crimes, despite the fact that the Commissioner had requested them to do so, for example in cases involving the activities of extremist groups or the use of discriminatory television advertisements for a political campaign. She wished to know why prosecutors could decline to investigate such cases and why the Commissioner did not have the power to order their investigation.

18. The Committee had received reports suggesting that, in the period since the 2015 parliamentary elections, the legislative framework protecting human rights had been weakened and bodies responsible for monitoring and combating hate speech and hate crimes had been dismantled. She invited the delegation to comment on those reports and wished to hear more about the interministerial and parliamentary anti-discrimination groups mentioned by the head of delegation in his opening statement. Against the backdrop of a weakened human rights architecture, there had reportedly been a rise in intolerance, hate speech and hate crimes. The full scale of such phenomena could apparently not be known, owing to chronic underreporting. She wished to know what action the Government was taking to combat hate speech, since, by all accounts, it had been largely silent on the issue. In the Committee's experience, it was very important for high-level officials and politicians

to make public statements unequivocally condemning incidents of hate speech. Instead, the Polish Government was seemingly taking no action to tackle the surge in racially motivated violence and the rise in xenophobia. In fact, reports suggested that anti-Muslim rhetoric was employed in political campaigns and that the country's small Muslim community had borne the brunt of attacks motivated by prejudice.

19. Online hate speech was a growing, and increasingly global, issue. She wondered what action the Government had taken to implement the recommendations of the Commissioner for Human Rights to combat hate speech online. In that connection, she was concerned about reports that neo-fascist groups were increasingly active, and even took part in public marches, despite the fact that they were banned by law. She asked why no action had been taken to prevent such marches; why only the groups themselves were illegal, while membership was not legally prohibited; and whether the Government was acting on the recommendations made by the Commissioner for Human Rights to address that issue. She failed to understand why an annual march organized by far-right groups to celebrate Polish Independence Day had not only been given a permit, but also priority status over other assemblies wishing to use the route of that march.

20. Paragraph 11 of the Committee's previous concluding observations concerned racial discrimination in the criminal justice system. She would like to know why there was such a low rate of prosecution – and an even lower conviction rate – of cases of racial discrimination. She asked to what extent persons belonging to minority groups were represented in the police and why responsibility for receiving complaints of police violence or abuse had been given to the Commissioner for Human Rights, whose office was already underfunded, rather than to a new, independent body, as had been recommended by the Committee.

21. **Mr. Kut** said that the State party's timely and detailed response under the Committee's follow-up procedure and the additional information provided in the periodic report were greatly appreciated. Still, the delegation might wish to elaborate on the reasons for dissolving the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance and explain how exactly the Council had failed, as stated in the State party's periodic report, to effectively perform its function and show tangible results. Additional information was also needed on the implementation of measures to combat hate speech and hate crimes. While the legal infrastructure, actions and policies were described extensively in the State party's submissions, little was said about outcomes.

22. The Committee would also welcome information about the results obtained through the Programme for Integrating the Roma Community in Poland for 2014–2020.

23. **Mr. Avtonomov**, commending the State party's efforts to train labour inspectors so that they could address issues of forced labour, said that it would be useful to obtain updated statistics on the number of investigations, prosecutions and convictions for trafficking in human beings. It would also be helpful if the Committee could gain further insight into the implementation of the National Action Plan against Trafficking in Human Beings 2016–2018 and find out whether the Action Plan had been evaluated and, if so, what conclusions had been drawn and which measures had been taken in response.

24. Additional information was needed on the different minority groups living in the State party. In respect of the Slowincy minority, for example, he was aware that there was a Slowincy biosphere reserve and an open-air museum, but unsure whether any Slowincy were currently living in Poland. The delegation might also wish to provide clarity on the situation of the Ruthenians (or Rusyn) and the Lemko, Boyko and Hutsul subgroups.

The meeting was suspended at 4.40 p.m. and resumed at 4.55 p.m.

25. **Ms. Verdugo Moreno** requested clarification regarding migrant women's access to health care. She invited the delegation to comment on reports that migrant women without legal residence in the State party had no access to health care before, during and after giving birth. If true, that would amount to a violation of article 5 of the Convention.

26. She welcomed the State party's efforts to train judges, prosecutors and police officers in identifying racially motivated offences. The results of the Training against Hate Crimes for Law Enforcement programme, including the training of some 100,000 police

officers, were encouraging. It appeared, however, that although the State party had specialized prosecutors who could handle cases of hate crimes, not all prosecutors were appropriately trained to identify racially-motivated offences and, as a result, they were unable to refer them to the specialized prosecutors. Was it true that the Public Prosecutor General had withdrawn from a memorandum of understanding concluded with the OSCE Office for Democratic Institutions and Human Rights for the purpose of implementing the Prosecutors and Hate Crimes Training programme? If so, why?

27. **Mr. Morillo Martínez** asked whether it was true that training materials on combating racial hatred used in the training of law enforcement officers contained symbols of the Falanga neo-fascist group. Depicting such symbols was likely to fuel rather than eradicate racist sentiments among the police force. Was it true that the State party continued to give priority to detention of refugees over non-custodial alternatives? It would be useful for the Committee to receive statistics on the composition of the prison population and the proportion of refugees, migrants and ethnic minorities in prison. Such statistics could serve as indicators of racism in law enforcement. It would also be interesting to hear the delegation's views on reports alleging that the State-run catch-up courses for members of the Roma community were leading to segregation in education. More information about the mechanisms in place to address the educational challenges affecting the Roma community would also be appreciated.

28. There was growing international concern over the increasing use of racist discourse as an electoral strategy, including in Poland. It was difficult to reconcile that phenomenon with the State party's comprehensive legal, institutional and policy infrastructure to combat racism and racial hatred. The delegation might wish to offer its thoughts on the matter. Doing so might help to dispel the widespread perception that the political climate in Poland was similar to that in the run-up to the Second World War.

29. **Ms. Dah** said that the Committee was pleased to note that the State party's economy was performing well and that it had transitioned from a migrant-sending to a migrant-receiving country. Noting that migrant workers were often hired on the basis of special contracts, she said that it would be useful to learn more about the precise nature of those contracts, as well as the workers' nationalities. The delegation was requested to indicate whether migrant workers had social protection, whether the companies hiring them were subject to labour inspections and whether they were covered by the State party's labour protection infrastructure. What mechanisms were in place to protect migrant workers, especially women, from labour exploitation?

30. It was encouraging to learn of the range of measures taken by the State party to train law enforcement officers in human rights-related matters, including the provisions of the Convention. The Committee was currently drafting general recommendation No. 36 on preventing and combating racial profiling and would be interested to learn of the State party's experiences in the area of racial profiling. National experiences and States parties' views on ways to combat racial profiling could provide useful input into the Committee's work.

31. **Ms. Izsák-Ndiaye** asked what lessons had been learned from the establishment, activity and elimination of the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, and whether there were plans to replace it. The Committee encouraged the creation of such institutions and therefore wished to know how the work begun by the Council would continue. Noting that hate speech posed a persistent problem in Poland, she asked what more could be done to prevent and combat it and how progress could be measured. She asked whether the State party had considered including in the national curriculum information on the Jewish, Roma and Ukrainian minorities and on their cultures, traditions and contributions to Polish heritage. She also wished to know whether children from those minority groups were offered education in their mother tongue. It would be appreciated if the delegation could provide further information on the outcomes of scholarships and education grants for Roma students and inform the Committee whether statistics were available on the number of Roma students in higher education. She would also be interested to hear more about the measures taken to provide members of the Roma community with job qualifications and subsequently with employment. Specifically, in what sectors and occupations had they found employment? The State party was requested

to indicate whether data were available on the participation of Roma persons in public life and their representation in decision-making processes. What was being done to reduce conflicts between local communities and the authorities with regard to the implementation of the Programme for Integrating the Roma Community in Poland? Lastly, she asked whether the Government undertook any regular activities to commemorate the loss of the lives of the 3,000 Roma persons exterminated at Auschwitz.

32. **Mr. Diaby** requested information on the State party's response to the refugee crisis in 2015, particularly in respect of its efforts to counter hate speech in public discourse. He asked whether the State party could respond to reports of its refoulement of refugees, and he requested information on actions undertaken to repress the expression of anti-Semitic and Islamophobic sentiment. Had any fascist rhetoric been identified in public protests, and if so, what measures had been taken to counter it? He enquired about the availability of information on racial profiling by the police and asked what results police training to counter such tendencies had yielded. Regarding integration, he asked whether integration programmes designed for the Roma community could be broadened to cover other national minorities. He also wished to know how ethnic and religious minorities were represented in the media and whether measures were in place to prevent the use of the media to disseminate discriminatory discourse.

33. **Mr. Bossuyt** asked what changes would be required to national law to enable ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provisions of that Convention would be particularly difficult to implement under current Polish law, and how the Polish legal definition of the term "migrant worker" would need to be amended to be brought into line with the definition used in the Convention.

34. **Ms. Li** said that the Committee had been informed that the implementation of legal reforms since 2015 had placed the independence of the judiciary in jeopardy. She therefore wished to know what measures, if any, had been taken to guarantee that independence. Noting that the Minister of Justice concurrently held the office of the Public Prosecutor General, she asked whether that could undermine the independence of the prosecution service and increase its vulnerability to political influence.

35. **Ms. McDougall** said that the Committee would appreciate more information on the results of the National Action Plan for Equal Treatment 2013–2016, particularly with regard to combating racial discrimination, and asked whether its impact had been assessed. Given that the time frame of the Action Plan had concluded three years previously, she wished to know whether it would be renewed or if a new plan was being prepared. The Committee would like to hear more about the activities of the Government Plenipotentiary for Equal Treatment, in particular regarding the practical aspects of his work, such as whether his office was provided with adequate financial support and human resources. She asked whether the Government had run any nationwide campaigns to raise awareness of the right to equal treatment and the remedies available in the event of violations. Did the State party collect data on discrimination cases filed, the grounds on which discrimination had been claimed and the legal remedies offered to victims? Had the effectiveness of anti-discrimination legislation been assessed, and would that legislation be strengthened?

36. **The Chair** asked whether there was a site dedicated to Holocaust remembrance where people could reflect on the tragedies of the past and the suffering that had been inflicted on thousands of innocent people.

37. **Mr. Broilo** (Poland) thanked the Committee for its questions. Regarding remembrance, he said that the Holocaust was indeed a tragic part of Poland's history. The Auschwitz museum served as a memorial to the thousands of victims.

The meeting rose at 5.50 p.m.