
ADVANCE UNEDITED VERSION

Distr.: General

31 August 2012

Original: English

Committee on the Elimination of Racial Discrimination**Eighty-first session**

6 -31 August 2012

Consideration of reports submitted by States parties under article 9 of the convention**Concluding observations of the Committee on the Elimination of Racial Discrimination****Finland**

1. The Committee considered the twentieth to twenty-second periodic reports of Finland (CERD/C/FIN/20-22), submitted in one document, at its 2191st and 2192nd meetings (CERD/C/SR.2191 and CERD/C/SR.2192), held on 23 and 24 August 2012. At its 2202nd meeting (CERD/C/SR.2202), held on 31 August 2012, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission by the State party of its twentieth to twenty-second periodic reports drafted in accordance with the Committee's revised guidelines for the preparation of reports. The Committee also welcomes the frank, open and constructive dialogue with the State party as well as its efforts to provide comprehensive responses to issues raised by Committee members during the dialogue.

B. Positive aspects

3. The Committee welcomes the various legislative and policy developments which have taken place in the State party to combat racial discrimination, including:

(a) Act of the Promotion of Integration (1386/2010) adopted by the Parliament on 30 December 2010, whose scope of application was extended to cover all immigrants residing in Finland;

(b) Amendments to the Non-Discrimination Act, in 2009;

(c) A new Act on the reception of persons seeking international protection (746/2011) adopted in 2011;

(d) Amendments to the Criminal Code (511/2011) entered into force in June 2011;

(e) Adoption of the National Policy on the Roma;

(f) Various programmes, strategies and other initiatives aimed at raising the awareness of the population with regard to racial discrimination, integration, tolerance and multiculturalism.

4. The Committee also welcomes the ratification by the State party, in May 2011, of the Additional Protocol to the Council of Europe Convention on Cybercrime.

5. The Committee notes with appreciation the State-Party's commitment to ratify the ILO Convention 169 within the term of the current government.

6. The Committee also notes with appreciation the initiation of negotiations on the Nordic Sámi Convention, as well as the State-Party's naming of a negotiating delegation half of which consists of members of the Sámi indigenous group.

C. Concerns and Recommendations

Demographic composition of the population

7. While noting the explanation provided by the State party with regard to its legislation that precludes the collection of statistical data based on race or ethnicity, the Committee remains concerned at the absence in the State party's report of recent reliable and comprehensive statistical data on the composition of its population including economic and social indicators disaggregated by ethnicity, including data regarding the Sámi indigenous peoples, other minority groups, and immigrants living in the territory of the State-Party. (art. 1).

In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), and recalling its General Recommendation 4 (1973) on demographic composition of the population, the Committee reiterates its previous recommendation that the State party collect and provide the Committee with reliable and comprehensive statistical data on the ethnic composition of its population and economic and social indicators disaggregated by ethnicity and gender, including data on Sámi indigenous peoples, other minority groups, and immigrants, in order to enable the Committee to evaluate the enjoyment of civil, political, economic, social and cultural rights of various groups of its population.

National human rights institution

8. While welcoming the recent establishment of a National Human Rights Institution, the Committee is concerned that the relevant legislation does not clearly articulate the relationship among its three components – the Human Rights Centre, the Parliamentary Ombudsman, and the Human Rights Delegation- and may not provide the guarantees of funding and independence required by the principles relating to the status of national institutions for the promotion and protection of human rights (Paris principles, adopted by the General Assembly in its resolution 48/134 of 20 December 1993, Annex). (art. 2).

The Committee recommends that the State party establish its National Human Rights Institution in a manner that is fully consistent with the Paris principles, adopted by the General Assembly in its resolution 48/134 of 20 December 1993.

Direct and indirect discrimination

9. While noting explanations provided by the State party, the Committee remains concerned that Section 2 (84/2009) of the Non-Discrimination Act, which specifies that the Act applies to “discrimination on the grounds of ethnic origin in connection with housing, other movable property or services on the general market for the public, with the exception of private transactions,” may be interpreted as permitting discrimination on the grounds of ethnicity in private transactions, in contravention of the Convention (art. 2, 5).

The Committee recommends that the State party take advantage of the ongoing revision of the Non-Discrimination Act to clarify that Section 2 (84/2009) of this Act prohibits discrimination on the grounds of ethnicity also with regard to private transactions.

Incitement to Racial Hatred on the Internet

10. The Committee takes note of measures taken by the State party to combat racist hate speech on the Internet, including the amendments to the Criminal Code adopted in 2011, the instructions of the National Board of the Police regarding the classification of hate offences, and the creation of a working group by the Ministry of Justice to define punishable hate speech and achieve a more uniform enforcement of the relevant provisions of the Criminal Code. However, the Committee is concerned at the persistence of this phenomenon in the State party (art. 4).

The Committee recommends that the State party reinforce its efforts to combat incitement to racial hatred and racial discrimination on the Internet, including through the more effective collection of data relating to the prevalence of racial hate speech on the Internet and through awareness-raising campaigns on this issue targeting youth, media and politicians.

Situation of the Sámi

11. While noting that the State party has established, in August 2012, a working group tasked to revise the Sámi Parliament Act, the Committee is concerned that the Sámi Parliament still has very limited decision-making power on issues relating to the cultural autonomy of the Sámi people, including rights relating to land and resources used.

The Committee recommends that the State party, when revising the Sámi Parliament Act, enhance the decision-making powers of the Sámi Parliament with regard to the cultural autonomy of Sámi, including rights relating to the use of land and resources in areas traditionally inhabited by them.

12. While noting that the Supreme Administrative Court relied on the Committee’s prior Concluding Observations in its decision of 26 September 2011 defining who is a “Sámi” entitled to vote for Members of the Sámi Parliament, the Committee is concerned that the definition adopted by the Supreme Administrative Court gives insufficient weight to the Sámi people’s rights, recognized in the U.N. Declaration of the Rights of Indigenous Peoples, to self-determination (art. 3), in particular their right to determine their own identity or membership in accordance with their customs and traditions (art. 33), as well as their right not to be subjected to forced assimilation or destruction of their culture (art. 8) (art.5).

The Committee recommends that, in defining who is eligible to vote for Members of the Sámi Parliament, the State party accord due weight to the right of the Sámi people to self-determination concerning their status within Finland, to determine their own membership, and not to be subjected to forced assimilation.

13. While noting information provided by the State party, in particular the adoption of the Mining Act and the Water Act and the intention of the State party to clarify the legislation on the land rights of the Sámi people, the Committee is concerned that the land rights of the Sámi people have not been satisfactorily settled and that various projects and activities, such as mining and logging, continue to be carried out in the traditional lands of Sámi people without their prior, free and informed consent. The Committee is also concerned that Finnish law empowers reindeer cooperatives, the majority of whose members practice modern reindeer farming rather than traditional Sámi reindeer husbandry, to take decisions by majority vote that can severely undermine the ability of Sámi reindeer herders to carry out their traditional occupations. The Committee is particularly concerned by the decision of the Ivalo reindeer cooperative, recently upheld by the Supreme Administrative Court, to require four Sámi reindeer herders in the Nellim area to slaughter almost their entire herds. (art. 5).

In line with its General recommendation no. 23 (1997) on the rights of indigenous people, the Committee recommends that the State party find an adequate negotiated solution to the dispute regarding the rights of Sámi people in their traditional lands, including by revising its legislation on this issue. In doing so, the Committee recommends that the State party take into account the ILO Convention no. 169, which the State party has committed to ratify. The Committee further recommends that the State party take appropriate measures to protect the Sámi traditional livelihood of reindeer husbandry.

14. The Committee is concerned that, while about 70 per cent of Sámi speaking children live outside of the Sámi Homeland, mainly in the Helsinki area, Rovaniemi and Oulu, the right of the Sámi to receive early childhood education in the Sámi language is recognized only in the Sámi Homeland. The Committee is also concerned at the fact that social and health services are not effectively guaranteed to Sámi people in their languages (art. 5, 7).

The Committee recommends that the State party take appropriate measures to ensure that all Sámi children throughout the territory of the State Party effectively receive education in their own languages, including by training more teachers in Sámi languages. The Committee also recommends that the State party effectively ensure social and health services in Sámi languages to Sámi people in their Homeland. The Committee further recommends that the State party accelerate the adoption of the revitalization programme proposed by the Ministry of Education and Culture in order to promote and protect the Sámi languages, including in media, education, social and health services and culture.

Situation of Roma communities

15. While noting the studies undertaken and policies announced by the State party to address the socio-economic inequalities faced by Roma in various areas of life, in particular the National Policy on Roma of 2009, the Committee is concerned that the Roma people continue to face discrimination in the enjoyment of social and economic and cultural rights, in particular in access to employment and housing. While noting efforts undertaken by the State party to integrate Roma children into education and to promote the Romani language, the Committee is concerned that around 50 per cent of Roma children are enrolled in special education classes (art. 5).

Recalling its General recommendation no. 32 (2009) on the meaning and scope of special measures in the International Convention of All Forms of Racial Discrimination and its General recommendation no. 27 (2000) on discrimination against Roma, the Committee recommends that the State party take concrete measures to implement effectively its National Policy on Roma, so as to reach concrete results regarding their integration into the labour market and housing. The Committee also encourages the State party to strengthen its measures with regard to the inclusion of Roma children in education and to promote the teaching of Romani language, including by enhancing teachers' abilities in such a language. The Committee requests that the State party provide it with information on specific measures taken as well as on their concrete results.

Situation of immigrants, including asylum seekers

16. The Committee takes note of legislative, administrative and policy measures taken by the State party to combat discrimination against immigrants and to promote equality, such as the Promotion of Integration Act of 2010, the "Yes project," and the work of the Discrimination Monitoring Group. However, the Committee remains concerned that anti-immigrant sentiment has been increasing in the State party. It is also concerned at the continued marginalization of immigrants, especially with regard to employment, housing and social services. The Committee is further concerned that police activity during the week of intensive enforcement of laws regarding illegal entry may cross the line into racial or ethnic profiling (art. 2, 5).

The Committee recommends that the State party enhance its measures aimed at promoting understanding and tolerance among different ethnic groups residing in the territory of the State party. The Committee also recommends that the State party take concrete measures to implement the Promotion of Integration Act and to adopt the Government Programme for integration for 2012-2015, in order to foster the integration of immigrants with regard to employment, housing, education and social and healthcare services. The State party should further avoid racial or ethnic profiling, including by strengthening internal police guidelines on the subject. The Committee requests that the State party provide it with information on specific measures taken as well as on their concrete results.

Education of Roma and immigrant children

17. While noting the reduction of bullying in schools achieved through the KiVa program and the State Party's efforts to reduce negative stereotyping of Roma through rap-music television spots aimed at young people, the Committee remains concerned at the persistence of bullying of Roma children and immigrant children in schools. (art. 2, 7).

Recalling its General Recommendations 27 (2000) and 30 (2009), the Committee recommends that the State party continue to strengthen its efforts to protect Roma children and immigrant children from bullying in schools.

Situation of asylum seekers

18. While noting the State-Party's intent to curtail the detention of unaccompanied minor asylum seekers, the Committee is concerned about the detention of asylum seekers belonging to vulnerable groups, such as pregnant women and persons with disabilities and victims of torture. The Committee is also concerned that, because of overcrowding in the Metsälä Detention Facility, asylum seekers are sometimes detained in police facilities. The Committee is further concerned that, because of inadequate funding from the national government, there is insufficient housing in the municipalities for successful asylum

applicants. Moreover, the Committee is concerned that the use of expedited procedures for adjudicating asylum applications and the lack of automatic suspensive effect of an appeal may risk the refoulement of persons entitled to asylum, especially those with pending appeals.

The Committee recommends that the State Party employ alternatives to the detention of asylum seekers whenever possible and that asylum seekers not be detained in police facilities. The Committee also recommends that the national government provide adequate funding to the municipalities for the provision of housing to successful asylum applicants. The Committee further recommends that the State party carefully examine its use of accelerated procedures in asylum cases to avoid any risk of refoulement of persons entitled to asylum, and provide automatic suspensive effect to appeals of rejected asylum applications.

D. Other recommendations

Ratification of other treaties

19. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and expedite the ratification of ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.

Follow-Up to Durban Declaration and Programme of Action

20. In light of its General recommendation no. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

Consultation with organizations of civil society

21. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

Dissemination

22. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

Common Core Document

23. Noting that the State Party has submitted its Core Document in 1997, the Committee encourages the State Party to submit an updated Core Document, in accordance with the

harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

Follow-up to concluding observations

24. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraph 12, 13 and 16 above.

Paragraphs of particular importance

25. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 10 and 15, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

Preparation of the Next Periodic Report

26. The Committee recommends that the State party submit its twenty-third periodic report due on 13 August 2015, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).
