

CAPE VERDE

CERD A/37/18 (1982)

135. The initial report of Cape Verde (CERD/C/61/Add.5) was considered by the Committee without the participation of a representative of the reporting State.

136. The members of the Committee expressed general satisfaction with the report, which had followed the guidelines laid down by the Committee and which was detailed and to the point. They stated, however, that it would have been useful if a representative of the Government had been present, especially since the Committee was discussing the initial report of Cape Verde, and requested the Government to ensure that its representative would be present during the discussion of the second periodic report, which is due on 2 November 1982.

137. Referring to the statement in the report that there is no racial discrimination in Cape Verde and therefore no need for any legal measures, the members of the Committee pointed out that the absence of any racial discrimination did not constitute sufficient justification for not fulfilling obligations under the Convention and that the adoption of the required legislation was not only a legal obligation for States Parties but also a political responsibility since the Convention was aimed at creating a system of prevention through international legislation. One member of the Committee stated that the incorporation of the Convention into the municipal legal order would constitute a strong basis for action and it could also play an important role in influencing the legal system, in the meantime while more specific measures were being prepared.

138. With reference to article 2 of the Convention and in connection with the information given in the report that emigrant Cape Verdeans had been the victims of racial discrimination, some members asked for further details concerning the international agreements referred to, whether the interests of Cape Verdean citizens abroad were being properly protected, and which rights were enjoyed by foreigners and the emigrant population in Cape Verde.

139. With regard to implementation of articles 4 and 6 of the Convention, it was noted that the Portuguese Penal Code currently in force in Cape Verde did not define the dissemination of ideas based on racial superiority or hatred as a crime, and, despite the reference in the report to protection for victims of racial discrimination in the sphere of public law, they appeared to have no possibility of access to the courts. Members of the Committee expressed the hope that the new Penal Code at present being drawn up for Cape Verde would fulfil the requirements of articles 4 and 6 of the Convention.

140. Concerning the implementation of article 5, a member of the Committee noted that, under the provision contained in article 31.2 of the Constitution, every citizen enjoyed personal inviolability and no citizen could be imprisoned or suffer any punishment except in the cases and manner, and subject to the safeguards laid down by law, and requested further clarification concerning the conditions and

exceptions laid down for this and other fundamental guarantees. It was also asked which rights were guaranteed to aliens; whether trade unions in Cape Verde had the right to bargain or merely looked after the welfare of the working class; whether citizens could receive free legal aid; how nationality was acquired; whether dual nationality was permitted and what the status of a naturalized citizen was.

141. As far as article 7 of the Convention was concerned, some members of the Committee noted that implementation of its provisions called not only for public information activities, but also for the adoption of effective measures to promote understanding, harmony and tolerance among different groups. The Government was requested to provide information on what was being done in the respect in its second periodic report.

CERD A/39/18 (1984)

225. The second periodic report of Cape Verde (CERD/C/86/Add.4) was introduced by the representative of the reporting State who indicate that his country did not have minorities and that the entire population spoke the same language. He also stressed the fact that because two thirds of its population had emigrated and worked in other countries, Cape Verde had concluded a number of bilateral agreements to protect the rights of its many citizens working abroad.

226. The Committee emphasized the importance of maintaining a constructive dialogue with the reporting State and expressed the hope that the next periodic report of Cape Verde would take into account the Committee's guidelines (CERD/C/70/Rev.1).

227. Members of the Committee asked whether the Convention had been incorporated into Cape Verde's legal system and whether it could be invoked before the courts. It was also asked whether Cape Verde continued using the Portuguese Penal Code.

228. With regard to article 3, although the Committee took note that Cape Verde condemned racial segregation and apartheid, it was pointed out, however, that the next report of Cape Verde should provide information on the country's relationship with the racist regime of South Africa.

229. In connection with the implementation of article 5, members requested in general more detailed information in the next periodic report and asked, specifically, whether there was an exception to the nationality laws in respect of Cape Verdeans residing in Guinea-Bissau; whether a Cape Verdean who settled in Guinea-Bissau could easily return and acquire Cape Verdean citizenship and whether dual nationality was possible in such cases; how was the right to freedom of movement between Guinea-Bissau and Cape Verde guaranteed; whether there were any white settlers still residing on the island and whether there had been any problems connected with compensation for their property after independence.

230. With reference to articles 4, 6 and 7, the Committee requested more detailed information regarding the country's fulfilment of its obligations under those articles.

231. Replying to questions raised by members, the representative of Cape Verde informed the Committee that the former penal code was still being applied with the necessary amendments which were introduced after independence. Special legislation concerning acts of racial discrimination (including compensation for victims) was under consideration by a special committee for the study of the reform of penal legislation. He indicated that general international law was applied directly, despite the fact that the Constitution contained no provisions for incorporating international law into the domestic legal system. The Convention's provisions dealing with punishment for crimes, however, could not be applied directly, since the Constitution established the principle nullum crimen, nulla poena sine lege.

232. Turning to the questions dealing with the interrelationship between Cape Verde and Guinea-Bissau and the implementation of civil rights set out under article 5 of the Convention, he said that at present Cape Verde and Guinea-Bissau were two independent and sovereign States; Cape Verde had done what it could to renew its relations with Guinea-Bissau after the coup d'etat but no unification process was envisaged. With regard to the question about freedom of movement, he pointed out that many of the country's citizens lived abroad. Concerning the question about white settlers, he said that there had been few Portuguese settlers in the country at the time of independence.

233. The representative assured the Committee that the next periodic report of Cape Verde would supplement information regarding his country's relations with South Africa as well as on the implementation of article 7.

CERD A/47/18 (1992)

228. At its 949th and 952nd meetings, on 10 and 12 August 1992 (see CERD/C/SR.949 and 952), the Committee reviewed the implementation of the Convention by Cape Verde on the basis of its previous report (CERD/C/86/Add.4) and its consideration by the Committee (see CERD/C/SR.662 and 663). The Committee noted that no reports had been received from the State party since 1983.

229. Members of the Committee recalled that, in its initial report, Cape Verde had provided information on the constitutional, legislative and administrative arrangements prevailing in that country. A number of questions had subsequently been raised by Committee members.

230. After some delay, Cape Verde had submitted its second periodic report, which was considered in 1984. Members of the Committee had expressed the opinion at that time that the second periodic report had not completely responded to earlier points raised and additional questions were asked. Unfortunately, no further reports had been submitted by the State party since then.

231. During the consideration of the second periodic report, the representative of Cape Verde had informed the Committee that the Convention was part of the national law and had been published in the gazette. However, the non-self-executing provisions of the Convention could not be applied directly but needed to be implemented through the enactment of specific legislation. Such legislation had not been adopted but the Penal Code was under review and the implementation of the Convention was to be included. The State party was invited to inform the Committee of the results of the review and subsequent developments..

232. Members of the Committee requested further information on the application of article 3 of the Convention as well as more detailed information on the enjoyment in Cape Verde of the rights enumerated in article 5. Information was also requested on any cases dealing with racial discrimination that had been brought before the courts and on measures taken in connection with article 7 of the Convention.

Concluding observations

233. In concluding the review, the Committee regretted that Cape Verde had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the State party to the possibility of requesting technical assistance from the Center for Human Rights in the preparation of its report.

234. The Committee urged the State party to fulfil its reporting obligations as soon as possible, taking into account the Committee's current review. In that regard, the State party was advised to follow the revised guidelines of the Committee and to provide the core information requested in document HRI/1991/1.

CERD A/51/18 (1996)

437. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Cape Verde based upon its previous reports (CERD/C/86/Add.4) and its consideration by the Committee (see CERD/C/SR.662, 663, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1983.

438. The Committee regretted that Cape Verde had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Cape Verde setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

439. The Committee suggested that the Government of Cape Verde avail itself of the technical assistance offered under the advisory services and technical assistance program of the Center for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

CERD A/58/18 (2003)

351. The Committee considered the third to twelfth periodic reports of Cape Verde, submitted in a single document (CERD/C/426/Add.1), at its 1586th and 1587th meetings (CERD/C/SR.1586 and 1587) held on 5 and 6 August 2003. At its 1602nd meeting (CERD/C/SR.1602), held on 15 August 2003, it adopted the following concluding observations.

A. Introduction

352. The Committee welcomes the third to twelfth periodic reports as well as the additional information provided by the State party's delegation during its oral presentation, and expresses its appreciation for the opportunity to resume its dialogue with the State party after a lapse of 20 years. It notes that during this period, Cape Verde's political situation evolved in such a way that it is now a fully working multiparty democracy, dedicated to upholding the rule of law and human rights. The Committee hopes that the State party will hereafter ensure the timely submission of its periodic reports, as required by article 9 of the Convention.

353. The Committee expresses its appreciation for the report and the frank and constructive responses to the questions raised, even though the report does not conform fully to the Committee's reporting guidelines. In this connection, the Committee suggests that the Government of Cape Verde avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the High Commissioner for Human Rights, with the aim of preparing and submitting its next periodic report in accordance with the reporting guidelines.

354. While generally rejecting affirmations of homogeneity, the Committee understands the State party's assertion that its population is homogeneous to mean that, having no autochthonous people, the Cape Verdeans are the product of an intermingling of people from many nations and regions.

B. Factors and difficulties impeding implementation of the Convention

355. The Committee takes note that Cape Verde is a developing country that became independent rather recently and suffers from a poor natural resource base, including serious water shortages exacerbated by cycles of long-term drought. The Committee also notes the State party's geographic spread over several islands which, combined with other difficulties, poses problems in the provision of services.

C. Positive aspects

356. The Committee notes with appreciation the commitment to human rights manifested by Cape Verde through the ratification of a large number of international instruments as well as the establishment of relevant institutions and the implementation of pertinent programmes in the field of human rights. The Committee also welcomes the fact that the international human rights instruments ratified by Cape

Verde are directly applicable before the domestic courts.

357. The Committee welcomes the creation of the National Human Rights Committee (NHRC) in 2001, entrusted with the promotion and dissemination of human rights and international humanitarian law awareness, and commends its elaboration of the "Cape Verdean Plan of Action for Human Rights and Citizenship", the text of which will be conveyed to the Committee as soon as it is translated. The Committee invites the State party to provide additional information on the degree of independence of NHRC, its funding, methods of work, activities and further achievements.

358. Likewise, the Committee commends the establishment of the office of the Ombudsman (Provedor da Justiça) and the adoption of a new Penal Code. The Committee notes, however, that the new Penal Code will only enter into force in 2004 and that the Ombudsman has not yet been appointed owing to financial constraints.

359. The Committee welcomes the information provided on the project aiming at the introduction of human rights education as part of the school curriculum, in conformity with article 7 of the Convention.

360. The Committee notes with appreciation the steps taken to give adequate recognition to the Creole language, without prejudice to the use of Portuguese as the main official language in the country.

361. The Committee welcomes the establishment of a joint committee by the Ministry of Justice and the Interior and the Ministry of Foreign Affairs, Cooperation and Communities to address problems encountered by immigrants in Cape Verde.

D. Concerns and recommendations

362. With respect to article 4 (a) of the Convention, the Committee is concerned about the lack of legal provisions to implement the State party's obligations, notably the absence of legislative measures punishing acts of racial discrimination and violence.

Noting the oral information provided by the delegation that a new Penal Code containing provisions on this issue will enter into force at the beginning of 2004, the Committee recommends that the State party fully comply with the obligations under article 4 (a) and invites the State party to provide additional and more specific information on this subject in its next report.

363. The Committee notes with concern that immigrants from the Economic Community of Western African States (ECOWAS) are often referred to as "Mandjaco", a term which may have negative connotations. It also notes instances of discrimination against members of communities coming from ECOWAS countries on account of the involvement of some of them in antisocial practices such as drug-trafficking and prostitution.

The Committee recommends that the State party take appropriate measures to combat stereotyping of certain groups of immigrants and that it provide additional information in its

next periodic report on the steps taken in this regard.

364. The Committee is concerned about the occurrence of trafficking in persons, affecting in particular foreigners and people of different race or ethnic origin, in the State party which, according to the information received, is used as a transit point by smugglers.

The Committee recommends that the State party monitor closely the phenomenon of trafficking in persons and provide additional and more specific information on the relevant provisions contained in the new Penal Code and their implementation.

365. While the Committee welcomes the efforts made by the State party to ensure the implementation of the Convention with respect to women and the existence of civil society organizations working in the field of promotion and protection of women's rights, it is concerned about the stereotyping of women in particular those of foreign origin in Cape Verde, as well as the insufficient representation of women at high political level in the labour market and in cultural affairs.

The Committee recommends that the State party take all appropriate measures to guarantee the equal enjoyment by women, free from racial discrimination, of the rights under the Convention and draws the attention of the State party to its general recommendation XXV on gender-related dimensions of racial discrimination.

366. The Committee notes the lack of information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the Convention and recommends that the State party include in its next periodic report statistical information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination. The Committee further requests the State party to ensure that appropriate provisions are available in national legislation and to inform the public about all legal remedies in the field of racial discrimination.

367. The Committee notes that the State party has not yet made the optional declaration provided for in article 14 of the Convention, and hopes that the assurance given by the delegation of Cape Verde that it will do so as soon as possible will be promptly implemented.

368. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

369. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report

information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

370. The Committee encourages the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic reports.

371. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

372. The Committee recommends that the State party submit its thirteenth periodic report jointly with its fourteenth periodic report, due on 2 November 2006, as an updated report and that it address all points raised in the present concluding observations.