

LUXEMBOURG

CERD A/36/18 (1981) 17/

111. The initial report of Luxembourg (CERD/C/R.109 and CERD/C/45/Add.2) was introduced by the representative of the reporting State, who pointed out that his country was traditionally open to immigration and that 25 per cent of its present population was of foreign origin or nationality. He also stated that the policy of Luxembourg, based on tolerance, had been successful and racial tension had never arisen in his country. Therefore it had not been considered necessary to pass specific laws concerning racial discrimination; besides, the Constitution guaranteed the equality of rights and the international human rights instruments ratified by Luxembourg were incorporated in domestic law and directly applicable before the national courts. The representative also informed the Committee that the two new articles, 454 and 455, of the Penal Code, quoted in the report, had been adopted by parliament and had entered into force on 9 August 1980.

112. The Committee took note of the fact that the Convention was directly applicable in Luxembourg as a result of its ratification. It observed, however, that the Convention required States parties, even if they claimed that they had no racial problem, to enact specific legislation to prevent racial discrimination. One member, referring to the statement in the report that "the Government considered it unnecessary to make provisions for a completely new set of internal regulations specifically designed to banish racial discrimination", drew attention to the fact that the report did refer to new measures which had been introduced and subsequently become law. Another member expressed a certain surprise at the statement in the report that Luxembourg had become a party to the Convention in order to engage in an act of international solidarity, coming as it did from a Government which ought to be well aware of the legal implications of the provisions of the conventions it ratified.

113. The Committee requested information on the demographic composition of the population, in particular regarding the proportion of the population that was of foreign origin. Members of the Committee asked how the rules governing immigration affected migrant workers, particularly in the steel industry; and whether Luxembourg had concluded agreements with manpower-exporting countries. Noting the comprehensive social insurance schemes existing in Luxembourg, a member wondered what social benefits were guaranteed to immigrant workers and whether there were agencies to facilitate their social and cultural adjustment, particularly in the case of workers from less developed areas. Another member pointed out that the employment of large numbers of immigrant workers in many Western countries could lead to racial tension in periods of economic crisis, as a result of competition for jobs, and stressed the need for measures required to protect foreign workers and to help them to adapt to their new situation and to establish contacts with the local population.

^{17/} For consideration of the second periodic report of Luxembourg at the twenty-fourth session, see paras. 417-425 below.

He expressed his assurance that Luxembourg could make a valuable contribution in that respect.

114. In connection with article 3 of the Convention, further information was requested on Luxembourg's relations with South Africa.

115. With reference to article 4 of the Convention, a number of comments were made regarding the new article 455 of the Penal Code. While welcoming the fact that articles 454 and 455 of the Penal Code had come into force, the Committee was of the view that all the requirements of article 4 of the Convention had not been fulfilled. Article 455 in particular did not provide for the punishment of acts of violence or incitement to such acts or of the provision of assistance to racist activities, referred to in article 4 (a) of the Convention; and it did not call for the prohibition of organizations promoting racial discrimination or for the imposition of penalties on public authorities or institutions guilty of such discrimination, as required by paragraphs (b) and (c) respectively of article 4.

116. Concerning the implementation of article 5 of the Convention, a member of the committee pointed out that, under the Constitution of Luxembourg, the right to equality before the law was limited to citizens and that there was no guarantee of equality before the law for aliens; he regretted the omission of this point in the report. Similarly, the right to education was not guaranteed to aliens and article 85 of the Luxembourg Constitution contained a special reservation concerning the political rights of aliens.

117. Regarding article 6 of the Convention, more information was requested concerning the organization of the judiciary and the remedies available to individuals in cases of racial discrimination. Questions were asked as to the powers of the courts and the procedures for the submission of claims. Noting that Luxembourg held a programme for trainee magistrates from Senegal, a member of the Committee requested details of that programme.

118. So far as the implementation of article 7 of the Convention was concerned more information was requested on its implementation. Regarding measures taken in the field of education and information, in particular, it was asked whether there were any special programmes for ethnic and national groups residing in Luxembourg whose presence might cause tension as a result of competition for employment; and whether there existed programmes to inform the citizens of Luxembourg about conditions in racially different countries.

119. Finally, the Committee expressed the hope that the next report would be more informative and would include constitutional provisions and laws as well as information on Luxembourg's institutions. The attention of the government was also drawn to the revised guidelines to be followed in the preparation of reports and the hope was expressed that the second periodic report of Luxembourg would be submitted in time for consideration by the Committee at its next session in August 1981.

120. The representative of the reporting State answered some of the questions raised and assured the Committee that he would convey the rest of the questions to his Government. Furthermore, efforts would be made to provide information on immigrant workers in the next report. Equality of treatment of workers was guaranteed in the Constitution and there were special provisions concerning the treatment of workers of certain European countries. Bilateral agreements existed

with Portugal and Spain which ensured equivalent treatment of workers from those countries.

121. Touching upon the rights of aliens, the representative stated that, although equal treatment of all residents before the law was limited in the Constitution to Luxembourg citizens, it could be concluded from the international conventions to which Luxembourg was a party and which were directly applicable in Luxembourg's courts that freedom of access to the courts was guaranteed to all residents.

122. Explaining the statement in the report that one of the motives for ratification of the Convention was a desire to engage in international solidarity, the representative said that this did not mean that Luxembourg was unwilling to give full effect to the Convention in its own territory, as it had already undertaken to do so as a State party.

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417. The Committee considered the second periodic report of Luxembourg (CERD/C/72/Add.2) together with the introductory statement by the representative of the reporting State.

418. Members of the Committee congratulated the Government of Luxembourg which had come a long way in its report towards meeting the recommendations of the Committee. They welcomed, in particular, the provisions described for migrant workers and expressed the wish that the Committee should be kept informed about the progress of those efforts.

419. In connection with article 2, paragraph 1 (a) of the Convention, reference was made to safeguards provided to persons under the jurisdiction of Luxembourg by article 14 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, and it was observed that that article simply guaranteed the implementation of articles 1 to 13 of that Convention without discrimination, but it could not be considered a safeguard as far as the International Convention on the Elimination of All Forms of Racial Discrimination was concerned.

420. With regard to article 3 of the Convention, it was asked whether Luxembourg had any relations with the Government of South Africa, whether it upheld United Nations sanctions and what material and moral support it provided to the national liberation movements in southern Africa which were combating racial discrimination and apartheid.

421. In respect to article 4 of the Convention, additional information was requested on the scope of articles 454 and 455 of the Luxembourg Penal Code implementing the provisions of that article. It was noted, in particular, that article 455 of the Penal Code punished incitement to racial discrimination; however, it was observed that the first part of article 4 (a) of the Convention spoke not only of incitement but also of disseminating ideas based on racial superiority or hatred. As regards article 4 (b) of the Convention, it was observed that, despite the fact that penalties were provided under article 455 of the Penal Code for people belonging to organizations which promoted racial discrimination, such organizations were not declared illegal and it was hoped that legislation would be adopted in Luxembourg to meet all the requirements of article 4 (b) and that the Committee would be kept informed about the steps taken by the Minister of Justice in this regard. Information was also requested concerning the implementation of article 4 (c) of the Convention and it was asked, in particular, whether cases of discrimination committed by public officials were punishable under existing legislation.

422. With regard to article 5 of the Convention, more extensive information was requested on the implementation by Luxembourg of that article and on the legal texts in force in the country which protected

^{18/} For consideration of the initial report of Luxembourg at the twenty-third session, see paras. 111-122 above.

the relevant rights, especially in view of the fact that political rights were clearly reserved for citizens, without discrimination. It was noted, in this connection, that on the basis of the practice of the courts, the principle of equality before the law was also applied to foreigners, provided that a distinction based on nationality was not expressly made by the law, and additional information was requested on such distinctions and whether any rights other than political rights, mentioned in article 5, paragraph (c), of the Convention, were expressly denied to foreigners. Furthermore, attention was drawn to the information on the demographic composition of Luxembourg and to the act of 28 March 1972 dealing *inter alia*, with the entry and residence of foreigners, and it was asked whether any quota system had been established for nationals from certain countries, whether any other differences existed among the foreigners by virtue of European Conventions, whether, for instance, the situation of migrant workers from non-EEC countries was more or less favourable than that of migrant workers from EEC countries. It was also asked what the percentage of foreigners who had come to Luxembourg seeking asylum was; whether the problem of new foreign migrant workers in Luxembourg concerned only certain foreign workers or, if ethnic minorities were also involved, what aspects of the problem had not been overcome; what the Government planned in order to ensure equal conditions for all people living in Luxembourg; what were the programmes of economic and social assistance for foreign workers especially with a view to solving their educational and housing problems; whether foreign workers could form social, political or labour organizations in accordance with Luxembourg law; what the activities of the Advisory Committee for Immigrants entailed in practice; whether they maintained contact with groups of foreigners in Luxembourg.

423. In response to article 6 of the Convention, the wish was expressed that detailed information would be provided with regard to all the remedies available to individuals or to groups in Luxembourg in the event of violations of the rules established in the Convention and on the provisions and peculiarities of Luxembourg procedure regarding the individual's right to seek redress. It was not clear from the report if the victim himself could start the prosecution procedure or at least bring a case before the civil court, if the criminal court or the administrative court could itself grant compensation, or what sort of criminal penalties were authorized by laws in the case of public officials. It was also asked whether migrant workers in Luxembourg were protected against any acts of racial discrimination by the national tribunals.

424. With regard to article 7 of the Convention, the hope was expressed that the Government of Luxembourg would provide more extensive information on the implementation of its provisions, in particular about general school activities and about related problems. It was also asked under what provisions the press could criticize the State for unfairness in terms of human rights.

425. The representative of Luxembourg stated, with regard to article 3 of the Convention, that in his Government's view diplomatic and economic relations with the racist régime of South Africa were problems which did not fall within the competence of the Committee and that it generally shared the position taken by the countries of the European Economic Community on questions of political co-operation. He also assured the members of the Committee that he would forward their questions, comments and suggestions to his Government.

CERD A/39/18 (1984)

185. The third periodic report of Luxembourg (CERD/C/103/Add.2) was introduced by the representative of the reporting State who recalled that the principle of the primacy of international law was recognized in the legal system of his country: international conventions thus formed an integral part of national legislation and individuals might invoke them directly or by way of exception to prevent impairment of their rights. During the period under consideration, there had been no major changes in legislation or jurisprudence in Luxembourg with regard to the implementation of the Convention and no sentence had been passed under articles 454 and 455 of the Penal code, which prohibited discrimination or incitement to discrimination. The representative also explained that foreigners enjoyed the same social benefits as Luxembourg nationals, as well as the freedom of association and expression guaranteed to nationals under the Constitution. Advisory committees for immigrants, in which workers and managers met on equal terms, were currently functioning in 17 communes of Luxembourg and the new communal law called for the establishment of such committees in communes having a specific percentage of immigrants.

186. The Committee expressed its satisfaction with the excellent report submitted by the Government of Luxembourg which had followed the Committee's guidelines and welcomes, in particular, the information on provisions to regulate the situation of immigrants who constituted a large proportion of the resident population of that State. Referring to the primacy of international law in the legal system of Luxembourg, members of the Committee requested more information on the incorporation of the Convention into Luxembourg's legislation and on the Convention's primacy over it. They wished to know, in particular, how the principle of the primacy of international norms in the legal order of the country was applied to the Constitution of Luxembourg. They wondered whether it would not be safer to adopt legislation when the Convention so required and asked what procedure was applied when the courts found a law to be in contradiction with the provisions of the Convention.

187. With reference to the implementation of articles 2 and 5 of the Convention, members of the Committee focused their attention particularly on the status of foreigners and immigrant workers who constituted almost a third of the population of Luxembourg. They wished to know what provisions existed in Luxembourg to implement the constitutional principle of equality before the law for nationals and foreigners and, since article 11 of the Constitution provided that certain rights could be enjoyed only by nationals, in what instances restrictions were applied to foreigners. It was also asked whether the figure provided with regard to foreign residents in Luxembourg included the entire bureaucracy of the European Economic Community, whether foreigners could apply for Luxembourg nationality, whether the status of foreigners would be maintained, what the situation of children of foreigners was, whether Luxembourg followed the principle of jus sanguinis or the principle of jus soli and whether there were provisions for implementing the principle of non-discrimination once a foreigner had acquired Luxembourg nationality. In addition, information was requested on the policy of Luxembourg with regard to refugees.

188. Concerning specifically the protection of the rights of immigrant workers, members of the Committee asked what steps had been taken to make judges and legal officials aware of the international norms and to enable them to interpret those norms in favour of persons who had been

victims of racial discrimination, whether the courts had had occasion to hear cases relating to discrimination in the matter of housing, employment, access to public places, transport and education, what type of cases were most frequently brought before the courts, what decisions had been taken on them and whether the legislation contained provisions for the translation of court proceedings into other languages. Furthermore, members of the Committee wished to receive more information on the National Immigration Council, in particular, on the procedure for electing the members representing the various national groups, the achievements of the Council since its establishment and its relations with the local authorities. It was also asked whether the function of the Council was purely to promote improvements in race relations or whether it acted as a mediator between opposing persons or groups, whether its role was merely advisory or whether it had some effective influence over policies and whether a policy concerning minorities had been adopted in Luxembourg to deal with problems raised by the presence in the country of different customs, traditions and languages. In addition, more information was requested in the advisory offices and the role they played in promoting interaction between the national population and new immigrants.

189. As regards article 3 of the Convention, some members of the Committee asked for clarification on Luxembourg's relations with South Africa. They wished to know, in particular, what the practical consequences of Luxembourg's condemnation of apartheid were, whether Luxembourg had investments in South Africa and whether it provided assistance to the victims of apartheid.

190. With respect to article 7 of the Convention members of the Committee wished to know how the principles of the Convention had been incorporated into the educational system of Luxembourg, whether there were agencies in Luxembourg which informed foreign workers and immigrants of the existence of the international instrument, among them the Convention, which protected them, what legal and other measures had been adopted by the Government of Luxembourg in the field of teaching, particularly with regard to the training of teachers or to promote better understanding between nationals and foreigners in general. It was noted that Luxembourg had recently given its dialect the status of a language and it was asked whether, in addition to French and German, the Luxembourg language would begin to be officially taught in the country, for example, to immigrant workers residing therein.

191. Replying to some of the questions raised by members of the committee, the representative of Luxembourg pointed out, in relation to the application of the principle of the primacy of international law in his country, that courts did not have the task of determining the constitutionality of the laws; however, they could refuse to apply laws which were contrary to either the Constitution of the country or an international convention to which Luxembourg was a party. They could also revoke regulations adopted by the executive branch in order to apply law.

192. As regard the question of the acquisition of Luxembourg nationality, he explained that the law which set forth requirements concerning residency and knowledge of the Luxembourg language was applied without any discrimination. Once Luxembourg nationality was acquired, there was no distinction made between those born in the country and naturalized citizens and all were equal before the law.

193. Referring to article 3 of the Convention, he stated that there was neither racial segregation nor apartheid in the territory of Luxembourg and that Luxembourg had long condemned the apartheid

régime of South Africa. However, his Government maintained its position that the Convention did not give the Committee the authority to examine the foreign relations of States, since the study carried out by the Committee was legal and not political in nature.

194. With reference to article 7 of the Convention, he confirmed that Luxembourg had in fact given its dialect the status of a national language and said that his country would maintain its flexible and pragmatic attitude with regard to the teaching of the Luxembourg language and other related questions.

195. The representative finally stated that the other questions raised by the Committee would be taken into account by his Government in the preparation of its next periodic report.

CERD A/42/18 (1987)

605. The fourth periodic report of Luxembourg (CERD/C/128/Add.2) was considered by the Committee at its 790th meeting on 11 March 1987 (CERD/C/SR.790).

606. The report was introduced by the representative of Luxembourg, who highlighted parts thereof.

607. Members of the Committee congratulated the representative of Luxembourg on an excellent report. They asked what privileged treatment was extended to nationals of EEC countries compared to nationals of other countries, and whether the nationals of European countries which were not members of EEC enjoyed special treatment compared with nationals of other countries of the world.

608. Members noted that aliens accounted for 26 per cent of the population and asked whether their presence caused any xenophobic or racist reactions. Additional information was requested regarding the measures adopted by the Government to assist resident aliens.

609. In relation to article 3 of the Convention, clarification was requested concerning the statement in the report to the effect that trade and foreign policy did not fall under the provisions of the Convention itself. It was asked whether Luxembourg maintained trade and diplomatic relations with South Africa.

610. Concerning articles 4 and 6 of the Convention, members wished to know what progress had been made in the implementation of the Convention, since it was not itself directly applicable and violations of its provisions were punishable only through domestic legislation. It was asked what specific provisions had been enacted to ensure implementation of the provisions of article 4, and whether legislation punishing acts of racial discrimination was intended to apply only to public officials or also to ordinary citizens. It was asked whether the European Convention on Human Rights was frequently invoked before the courts and whether judges applied the provisions of that Convention readily or reluctantly. A copy of the Act of 9 August 1980 mentioned in the report was requested for information.

611. It was observed that nationality was acquired primarily according to the rule of jus sanguinis but that in some cases preference had been given to the rule of jus soli. Additional information was requested in that regard.

612. It was asked whether the Government was contemplating making the declaration under article 14 of the Convention recognizing the competence of the Committee to deal with individual communications.

613. In reply to the questions raised and comments made by the members of the Committee, the representative of Luxembourg stated that the term "privileged treatment" used in the report referred to the principle of free movement of persons established by the Treaty of Rome. There was no discrimination between nationals of the 12 member States of EEC.

614. The people of Luxembourg did not show any hostility towards foreigners, though minor

isolated instances of friction might occur from time to time.

615. It was evident that foreign policy could not disregard human rights violations. Apartheid was a special case. The report enumerated the measures agreed upon by EEC and adopted by Luxembourg.

616. With regard to the implementation of the Convention in Luxembourg law, articles 454 and 455 of the Penal Code had been amended to bring them in line with the general principles of the Convention. As to the implementation of the European Convention on Human Rights, any needy person charged with an offence, whether a national or an alien, was entitled to legal assistance, and aliens were granted the services of professional interpreters appointed by the court. Luxembourg had endeavoured to give effect to the Convention through domestic legislation.

617. The bill on the acquisition of Luxembourg nationality, mentioned in the report, had become law on 23 December 1986. In view of the comprehensive nature of the Act, it was difficult to give a very precise and technical answer on that point. Nationality was basically acquired according to the rule of jus sanguinis, but naturally the rule of jus soli also applied, particularly in the case of children born of foreign parents on Luxembourg soil who lived there for a certain time; they were at an advantage if they wished to acquire Luxembourg nationality.

618. In order to facilitate the integration of aliens, the Government had issued a model statute for the Communal Consultative Commissions for Immigrants.

CERD A/44/18 (1989)

332. The fifth periodic report of Luxembourg (CERD/C/155/Add.2) was considered by the Committee at its 846th meeting, held on 17 August 1989 (CERD/C/SR.846).

333. The report was introduced by the representative of the reporting State, who expressed his willingness to provide any further information that might be requested by the Committee.

334. Members of the Committee welcomed the fifth periodic report of Luxembourg, which they said was a further illustration of the country's outstanding record in the observance of human rights.

335. With reference to article 2 of the Convention, members asked for clarification on the direct applicability of international treaties within the country's legal system, particularly since there appeared to be a contradiction in the report on the applicability of the Convention.

336. With regard to article 3, members congratulated the Government on the various restrictive measures taken, in conjunction with the European Communities, against apartheid. They wished to know, however, whether Luxembourg had any trade or diplomatic relations with South Africa, and whether the Government could provide any relevant information that had become available since the submission of the report.

337. Several questions were raised, under article 5, on the situation of aliens and foreign workers in Luxembourg. Members sought clarification on the right of foreigners to vote or hold public offices. They also wished to know if a distinction was made between State and local elections.

338. Turning to article 14, members requested the Government of Luxembourg to study the declarations made under this article by other State parties, and to consider whether they could also make the declaration.

339. Finally, members suggested that the next periodic report of Luxembourg should be a brief, updating document, and that the seventh periodic report should be more comprehensive.

340. In response to questions raised, the representative informed the Committee, with respect to article 2, that all ratified international treaties formed an integral part of, and were fully operational in, the domestic legal system of his country. Therefore, in any conflict between domestic law and the Convention, the provisions of the Convention would prevail.

341. Responding to questions on article 3, the representative stated that his country had limited diplomatic relations with South Africa, which were intended to influence that Government to abandon its apartheid policies. He was unable to provide figures on trade relations between the two countries, but stated that his Government strongly discouraged such relations. The representative confirmed his Government's consistent condemnation of apartheid. He also confirmed that he would transmit to his Government the Committee's request for further relevant information since the submission of the report.

342. With reference to questions on article 5, the representative stated that the large number of foreigners living in Luxembourg made the situation a special one. He said that a law had been adopted in December 1988 which envisaged that, in communities where foreign residents formed more than 20 per cent of the population, councils would be set up, with both national and foreign members, to consider the conditions of foreign residents. He informed the Committee that foreigners could be employed in the public service without actually becoming public officials, and stated that 25 per cent of the staff on the Ministry of Foreign Affairs were foreigners. He emphasizes that the situation regarding foreigners would continue to be given serious consideration by his Government; one of the possible results of this could be an eventual distinction between State and local elections.

343. The representative assured the members that he would inform his Government of the importance the Committee attached to article 14 of the Convention, and would inform them of the result of any decision taken on this subject.

CERD A/49/18 (1994)

411. The Committee considered the combined sixth and seventh reports and the eighth report of Luxembourg (CERD/C/206/Add.1 and CERD/C/236/Add.1, respectively) at its 1051st meeting, on 8 August 1994 (see CERD/C/SR.1051).

412. The reports were introduced by the representative of the State party, who provided information on developments since the examination of the previous report of the State party. He indicated that 32.4 per cent of the population was composed of foreigners, many of whom were nationals of the European Union. Since foreign children made up over 40 percent of the school population, a number of measures had been taken to overcome any language problems encountered by these children. For example, the number of pupils per class had been reduced and an additional year of primary schooling had been introduced. In addition, teaching in the mother tongue of foreign pupils had been included in the primary curriculum in some communes during the 1993/1994 school year. The authorities, through the school inspectorate, were endeavouring to persuade other communal school boards to provide such teaching. In addition, the Ministry of the Family gave financial support to a non-governmental organization promoting socio-cultural activities. In many of the communes where over 20 per cent of the population were aliens, special consultative commissions responsible for foreign residents had already been established. Moreover, information and services had been provided to immigrants on their rights and the means of recourse available to them. Although a vigorous campaign had been undertaken to encourage citizens of the European Union to enter their names on the electoral rolls, only 6,907 of the eligible 45,000 Union citizens had registered.

413. The representative said that an act concerning the integration of aliens in the Grand Duchy of Luxembourg had been adopted on 27 July 1993; its purpose was to facilitate the integration of aliens and provide for their social welfare. The act provided for coordination of policy concerning aliens through an interministerial committee and the Aliens Commission.

414. He also informed the Committee that racist and xenophobic acts had resurfaced in Luxembourg as in other European countries. The most serious event had been the defacing of gravestones in a Jewish cemetery by the inscription of swastikas on 27 February 1994, and the posting of anti-Black slogans. The authors of those acts had not been traced. In addition, there were 15 official police reports on the appearance of pro-Nazi graffiti in 1992, 4 in 1993 and 3 in 1994; and 4 official police reports of thefts accompanied by pro-Nazi graffiti in 1992, and 4 in 1993. In response to such developments the authorities had stated that the sale or wearing of Nazi insignia was likely to cause a public disturbance and as such was against the law.

415. Members of the Committee expressed their appreciation to the State party for its reports, prepared, as they were, in accordance with the reporting guidelines, and for the additional oral information presented by the State party's representatives, which enabled the Committee to gain a fuller appreciation of the political, legal and institutional framework in Luxembourg.

416. Further information was requested on the status of the Convention in domestic law. Since the Constitution contained no provisions condemning or prohibiting racial discrimination, the State

party was requested to consider adding such a provision to its Constitution.

417. Members of the Committee expressed interest in receiving further information on the initiative establishing consultative commissions for aliens at the communal level, particularly with regard to their functions, and why certain communes had failed to set up such commissions.

418. Concern was expressed that national legislation did not fully meet the requirements of article 4 of the Convention, as the relevant provisions of the Penal Code, in particular its articles 454 and 455, neither penalized the dissemination of ideas based on racial superiority or hatred, in the broadest sense, nor did they prohibit organizations or propaganda activities that promoted and incited racial discrimination.

419. With respect to article 5 of the Convention, members of the Committee noted the high proportion of foreign students, particularly from European Union countries, in schools and the provision made to teach them in their mother tongue at primary school level. It was asked what arrangements had been made to teach them the language and culture of their countries of origin in secondary schools. In addition, members of the Committee observed that generally a distinction was made between nationals of States members of the European Union and those of other countries with regard to the enjoyment of the rights provided under article 5 (e) (i) of the Convention; and that such a practice was common to all States members of the European Union in view of the trend towards European integration. It was also noted that other regulations existed in the State party which placed nationals of specified third party States on the same footing as European Union citizens. Members of the Committee asked for clarification on those matters and indicated that further study on the issue of European Union policy as to the treatment of non-nationals and on freedom of movement and its relationship to the Convention was required. More information was also requested on immigration to the State party of persons from regions other than Europe, and the situation of refugees from the former Yugoslavia in the State party.

420. In connection with article 6 of the Convention, members of the Committee requested further information on the remedies available in courts and other national bodies in the event of any act of racial discrimination. They also wished to know more about the sentences handed down in the cases of acts of racism mentioned in paragraph 8 of the eighth report and how many complaints had been filed on alleged acts of racism.

421. With regard to article 7 of the Convention, members requested further information on the measures taken in the areas of education, culture and information to combat prejudices that fostered discrimination and intolerance. In that regard, particular attention was drawn to the phenomenon of the involvement of younger people in racist movements and organizations. The importance of incorporating into school curricula information on the Convention and other measures to prevent discrimination was emphasized.

422. Further details were requested concerning the work of national human rights institutions. The question was also asked as to whether the State party had notified the Secretary-General of its acceptance of the amendments to the Convention regarding the financing of the meetings of the Committee.

423. Members of the Committee drew the attention of the State party to the complementarity between the European human rights system and the United Nations system with regard to the consideration of communications concerning racial discrimination. Thus, members of the Committee wished to know whether the State party was considering making the declaration recognizing the Committee's competence to receive and consider petitions under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

424. Replying to the questions raised, the representative of the State party indicated that the provisions of the Convention already had the same legal force as the Constitution in Luxembourg; however, he would recommend to his Government that the Convention be incorporated in the Constitution.

425. With regard to the matter of mother-tongue education in secondary schools, the Committee was informed that pupils in secondary schools could choose between instruction in Italian, Portuguese, English, French or German.

426. Concerning the situation of refugees from the former Yugoslavia, the representative stated, *inter alia*, that there were more than 2,700 such refugees living in Luxembourg and that their status had been defined after consultations with the Office of the United Nations High Commissioner for Refugees, which had led to recognition of their right to work in Luxembourg. The representative of the State party also indicated that his Government's next report to the Committee would contain more information on the consultative commissions, including an assessment of their progress. In addition, it would provide more details of the statistics on cases of racial discrimination and any penalties imposed by the courts.

427. Regarding the measures taken to coordinate the activities of non-governmental organizations in the field of human rights, the representative stated that the Luxembourg Institute for Human Rights had been set up in 1992 to coordinate human rights activities.

428. The Committee was also informed by the representative of the State party that the Government of Luxembourg was in favour of the amendments to the Convention relating to the financing of the Committee's work from the regular budget of the United Nations and as such his Government would notify the Secretary-General of its acceptance of those amendments.

Concluding observations

429. At its 1065th meeting, on 17 August 1994, the Committee adopted the following concluding observations.

Introduction

430. The submission of reports prepared in accordance with the guidelines on reporting under the Convention is appreciated. The additional oral information presented by a high-level delegation is also welcomed.

Positive aspects

431. Note is taken of the importance the State party attaches to the protection and promotion of human rights, especially through its contribution in international and regional forums, as well as the measures being taken at the national level. In particular, the recent information programmes instituted by the Ministry of the Family to inform immigrants, including through multilingual radio broadcasts, of their rights and the services provided and benefits available to them are welcomed. The decision of the Government to involve the non-governmental community in the dissemination of information against intolerance, racism and xenophobia is also noted.

432. The initiative to establish consultative commissions in communes where over 20 per cent of the resident population is alien is also noted with interest.

Principal subjects of concern

433. It is noted that racist and xenophobic acts, though very few in number, have been committed in Luxembourg.

434. Regret is expressed at the lack of information contained in the State party's reports on the breakdown and number of non-European Union members residing in Luxembourg.

435. While note is taken of the provisions of articles 454 and 455 of the Penal Code, the concern remains that the State party has not taken sufficient measures to implement the provisions of article 4 of the Convention.

436. It is noted with regret that the fullest information on the implementation of articles 5, 6 and 7 of the Convention was not provided in the reports of the State party.

Suggestions and recommendations

437. The Committee requests that the State party provide further information in its next report on the breakdown of the population, particularly with regard to persons who are not nationals of States members of the European Union, as well as on its immigration policy.

438. The Committee would appreciate receiving in the next report further information on the measures taken to implement all the provisions of article 4 of the Convention, particularly with regard to declaring illegal and prohibiting organizations that promote and incite racial discrimination.

439. The Committee requests that further clarification be provided on the implementation of article 5 of the Convention in the State party with respect to persons who are not nationals of States members of the European Union.

440. With respect to article 6 of the Convention, the Committee would appreciate receiving further information on the number of complaints of racial discrimination, the outcome of the prosecution of cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination.

441. The Committee requests the State party to provide further information in its next report on the implementation of article 7 of the Convention, particularly with respect to the measures taken in the field of teaching and education in schools for combating prejudice and promoting tolerance and the information being disseminated to youths in this regard.

442. The Committee encourages the State party to consider making the declaration provided for under article 14 of the Convention concerning the acceptance of the Committee's competence to receive and consider petitions.

443. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

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126. The Committee considered the ninth periodic report of Luxembourg (CERD/C/277/Add.2), at its 1193rd and 1194th meetings (CERD/C/SR.1193 and 1194), held on 7 March 1997. At its 1210th meeting, held on 19 March 1997, it adopted the following concluding observations.

Introduction

127. The Committee welcomes the detailed report submitted by the Government of Luxembourg, which contains relevant information about changes and developments that have occurred since the consideration of the previous periodic report, although the Committee notes that the form of the report does not follow the revised guidelines. The Committee notes with appreciation that the State party, in the preparation of the ninth periodic report, has taken into account the Committee's concluding observations with respect to the previous report.^{10/} The Committee also expresses its appreciation of the constructive dialogue with the delegation and the comprehensive and thorough answers given to the range of questions asked by its members.

Factors and difficulties impeding the implementation of the Convention

128. It is noted that there are no significant factors or difficulties that prevent the effective implementation of the Convention in Luxembourg.

Positive aspects

129. The high standards of Luxembourg regarding the promotion and protection of human rights and its commitment to implementing the provisions of the Convention are noted with appreciation, especially taking into account the very high proportion of foreign residents (over 35 per cent) in the country. The fact that Luxembourg has made a declaration under article 14 of the Convention and is the first State party to implement paragraph 2 of article 14 by establishing a standing committee against discrimination in May 1996 is also welcomed.

130. The additional steps recently undertaken by the authorities of Luxembourg to bring its legislation and practice into line with the Convention's requirements are welcomed. In addition to the Aliens Act promulgated on 27 July 1993, the current efforts being undertaken by the Government to amend the Penal Code are welcomed.

131. The Committee noted with satisfaction that the Government collaborates with non-governmental organizations to facilitate the integration of aliens and to prevent and combat all types of racial discrimination. In this regard, note is taken of the 1993 working agreement between the Government and the liaison Committee for Aliens' Associations.

^{10/} [Official Records of the General Assembly,] Forty-ninth Session, Supplement No. 18 (A/49/18), paras. 429-443.

132. Satisfaction is expressed in relation to efforts undertaken by Luxembourg to raise awareness and to promote action against all forms of racial discrimination. Training of the police on human rights issues is also welcomed. School and adult education policies implemented by the State party to reflect a pluri-national and multilingual population are a source of satisfaction. The radio broadcasting of programmes in various foreign languages is also welcomed as a positive trend.

133. The Act of 27 July 1993, which, *inter alia*, provides special measures to promote and protect the right to housing of foreign workers, is welcomed in the light of article 5 of the Convention.

134. The Committee welcomes the activities undertaken and planned in Luxembourg on the occasion of the European Year against Racism (1997).

Principal subjects of concern

135. It is noted with regret that racist and xenophobic acts and incidents occurred in Luxembourg during 1994.

136. Although noteworthy steps have been taken in the period under review towards the elimination of racial discrimination in Luxembourg and to strengthen the implementation of article 4 of the Convention, it is noted that racist organizations are not yet prohibited by law.

137. Although the Committee is aware of the positive efforts undertaken by the State party in the field of education against racial discrimination, concern is expressed about the absence or insufficiency of such educational measures for some professional groups, such as judges, magistrates, lawyers and civil servants.

Suggestions and recommendations

138. In the light of article 4, paragraph (b), of the Convention and of the current process of amending the Penal Code of Luxembourg, the Committee recommends that the Government amend article 455 of the Penal Code to bring it fully into line with the requirements of the Convention.

139. With respect to articles 4 and 6 of the Convention, the Committee would appreciate receiving further information on the number of complaints of racial discrimination, the outcome of the prosecution of cases of racial discrimination and the redress, if any, provided to persons suffering from such discrimination.

140. The Committee recommends the amendment of article 444 of the Penal Code with a view to introducing stronger penalties for acts of slander and/or defamation of a racial character.

141. It is further suggested that the State party consider providing education and training on racial tolerance and human rights issues to professional groups such as judges, magistrates, lawyers and civil servants.

142. During the current review by the authorities of Luxembourg of national legislation relating to freedom of the press and information, the Committee recommends that the State party take

appropriate measures to ensure that all of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination are taken into account.

143. The Committee recommends that the State party give publicity in the country to its ninth periodic report, as well as to the Committee's concluding observations thereon.

144. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

145. The Committee recommends that the State party's next periodic report, due on 1 June 1997, be an updating report and that it address all the points raised during the consideration of the ninth report.