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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-third session

SUMMARY RECORD OF THE 1601st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 August 2003, at 10 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Sixteenth periodic report of Finland (continued) (CERD/C/409/Add.2, HRI/CORE/1/Add.59/Rev.2)

1. At the invitation of the Chairman, the members of the delegation of Finland resumed their places at the Committee table.
2. Mr. AARNIO (Finland), replying to Committee members' questions, said the Chancellor of Justice and the Parliamentary Ombudsman had a general duty to monitor the implementation of fundamental rights and human rights in the performance of public functions. They had the power to take legal action where violations were suspected. The tasks of the Minority Ombudsman included promoting ethnic relations; monitoring, reporting on and improving the status and rights of ethnic minorities; and providing information, recommendations, instructions and advice. An advisory board for minority issues would soon be established to assist the Ombudsman.
3. With regard to Sami issues, he said that, since the submission of Finland's report (CERD/C/409/Add.2), the committee referred to in paragraph 102 of the report had proposed the establishment of an administrative board for the Sami homeland for the purpose of resolving land ownership issues. The committee had been unable to reach unanimous agreement, however, and conflicting opinions had been submitted on its proposals.
4. The Ministry of Justice had subsequently proposed the establishment of an advisory board for the Sami homeland, with a mandate to submit opinions on the most important decisions on land ownership in the area, as provided for in a separate Act of Parliament, the aim being to find an ecologically, socially, culturally and economically sustainable solution. The board would have consisted of representatives of the Sami Parliament and of the local non-Sami residents, with a de facto Sami majority, and would have helped coordinate major decisions on land use and natural resource management and conservation, thereby safeguarding Sami culture and traditional means of livelihood, in the light of local conditions and development needs. In the Ministry's view, the Sami would have had adequate participation and influence, taking into account local history, land use and population structure. The proposal would not have affected the self-government of municipalities or violated the rights of individual landowners. That proposal had initially received the support of the Sami Parliament.
5. The Ministry proposal had been sent out for comment to a large number of authorities and relevant non-governmental organizations (NGOs). The lack of consensus among the views submitted, however, had made it impossible to submit a bill to Parliament in 2002 as originally planned. By that time, the Sami Parliament had also reversed its position.
6. He said the question of title to land in border areas within the Sami homeland had proved so difficult to resolve that special measures had been set in motion. Court proceedings had been deemed inappropriate, since they could give rise to many legal uncertainties - for example in questions of evidence. A sound basis for a political decision, on the other hand, could be

provided by thorough historical research. The pressure for some such study had intensified in September 2002, with the publication of the Sami Parliament's own report, which centred around the contention that the State's title to the land had no reliable basis in law. The Sami Parliament had thus abandoned the effort to find a solution based on the protection of an established right to use of the land and was instead attempting to claim title.

7. In May 2002, the Government had concluded that it would be necessary to undertake independent research based on historical archives of the dwellings, populations and land use from the mid-eighteenth century to the early twentieth century. Existing research showed that the Sami and other Finns had lived side by side for centuries, and it was important to obtain independent scientific information if a proportionate solution was to be found, whether on a legal or a political basis. In November 2002, the Finnish Parliament had approved funding for a joint university research group, due to complete its work by the end of 2004. The Government was ready to include the Sami Parliament in the work of the monitoring group at any time, but the Sami Parliament had thus far refused to participate.

8. As to the definition of Sami, he said the dispute had now been resolved by a ruling handed down by the Supreme Administrative Court in September 1999, as described in paragraphs 106 to 109 of the report. In the light of that authoritative ruling, the Government had concluded that there was no longer any need to change the definition given in section 3 of the Sami Parliament Act. With regard to the academic questions of self-identification and community acceptance, he said the self-identification criterion had been met by the requests for registration on the electoral roll, while the group acceptance criterion had been fulfilled by the decision of the Sami authorities, as confirmed by the decisions of the Supreme Administrative Court. Both were necessary conditions.

9. Ms. HOLM (Finland), replying to a question by Mr. Herndl on the increase in the number of racist acts, said that there had indeed been an increase in the number of racially-motivated offences reported to the police in 1999/2000, but that in 2000/2001 the number had declined. The 2002 report would be published in October 2003. The decline could be due either to non-reporting or to a fall in the actual number of offences. A study of immigrants' experience had shown that offences were seldom reported to the police, in the belief that they were of minor importance or that no action would be taken away. Those findings were in line with another survey, in which the population as a whole gave precisely those reasons for not reporting offences.

10. In reply to questions on family reunification and DNA tests, she said that between 50 and 60 unaccompanied children arrived every year and their cases tended to take around three months to process, which was considered reasonable. The number of people applying for family reunification was now between 300 and 400 per year. Where applicants arrived without reliable documentation, the Directorate of Immigration conducted interviews in both Finland and the country of origin, and only if there was not sufficient evidence were applicants and the families involved offered a DNA test. The test was voluntary, but refusal to take it could lead to rejection on the grounds of lack of evidence. Around 200 tests were conducted per year. The family reunification process was facilitated if the test showed a relationship. The tests had led to a decrease in the number of complaints and in the number of groundless applications.

11. The accelerated asylum procedure was applied only in accordance with legally-defined criteria, as described in paragraph 126 of the report. Finland had no list of safe countries of origin or of asylum, which were always assessed on a case-by-case basis. Decisions were subject to appeal and a refusal could be blocked by the Helsinki Administrative Court. A decision to refuse entry must be enforced within eight days, a sufficient period to give the Court time to react.

12. Mr. KOSONEN (Finland) said that, from the legal standpoint, the fact that appeals in respect of the accelerated asylum procedure had no suspensive effect was not contrary to articles 3 and 13 of the European Convention on Human Rights. Where there was no arguable claim, there was no requirement for such a remedy, and the aim was to allow non-arguable cases to be dealt with quickly, thereby leaving time to deal with the arguable cases. Nevertheless, much depended on the vigilance of the Helsinki Administrative Court, and applicants could always request an interim suspension and appeal to the Supreme Court. It was also possible to submit further information to supplement an initial application. Applicants were thus protected by a range of safeguards.

13. As to the possibility of directly invoking the Convention in domestic courts, he said the Convention had never been at risk in that regard in Finland. There had never been a case where a court had ruled against invoking the Convention, although account was first taken of Finnish legislation and reference tended to be made to the Convention in the event of a conflict. Article 6 of the new Constitution prohibited all forms of discrimination, a fundamental tenet of the domestic legal order. Interpretations of the law, too, now tended to be human rights-based, and a special committee monitored new legislation to ensure that it did not violate human rights instruments.

14. With regard to the Åland Islands, he said Finnish speakers had the right to use their own language in courts and in their dealings with other official authorities, and to learn Finnish during their basic education. The official language was Swedish but, under the regional autonomy arrangements, the islands could rule otherwise if they so decided, subject to confirmation from the Ministry of Justice and the President.

15. Mr. LAAKKONEN (Finland) said the Russian-speaking minority in Finland was not a homogenous group. It was made up of Russian speakers who had arrived before the Russian revolution, refugees and repatriated Finns and their Russian-speaking families. An ad hoc working group of the Advisory Board for Ethnic Relations had submitted a report on that minority to Government ministries and non-governmental organizations in the spring for comments. The Ministry of Labour was currently preparing a summary of those comments and recommendations, which would be submitted to the ministerial group for immigration policy and inter-ethnic relations in October. It was worth noting that the Russian-speaking minority played an important role in the promotion of cooperation between Finland and Russia, in particular in the border areas.

16. With regard to legislation on the protection of equality, he said that Parliament would be considering a bill in the autumn, probably in November. An advisory board would almost certainly be set up to develop guidelines for the authorities in cooperation with stakeholders and social partners. The Ministry of Labour was also undertaking consultations with its partners, specifically unions and employers.

17. Mr. CORTÉS TÉLLEZ (Finland) said his Government was fully aware of the need to combat the spread of racism via the Internet; such propaganda, like all racist propaganda, was prohibited and punishable under the Penal Code. A study of that problem had in fact been prepared by the Ministry of Education in 2001. The difficulty lay in finding the resources needed to monitor the entire Internet, which meant that in practice a complaint had to be made about a specific web site, following which there would be an investigation and prosecution if necessary. The Ministries of Education, the Interior, Transport and Communications and Labour planned to meet with service providers to impress on them their responsibility for preventing the dissemination of racist content.

18. As for human rights education, he said that teaching about human rights and minorities was compulsory and was integrated into all subject areas, in particular history. Newly prepared curriculum guidelines had, however, proposed that human rights teaching be still further strengthened. Schools were free to choose the teaching manuals they preferred but teachers could use many other sources of material on minorities and human rights. Student specialist teachers received between 1 and 15 weeks of university training in human rights and minority issues while student generalist teachers received between 1 and 3 weeks' compulsory education in multiculturalism. In-service training was also provided to educate already practising teachers in human rights and minority issues. The Ministry of Education allocated specific resources for such programmes.

19. Ms. JOUTTIMÄKI (Finland) said all residents of Finland, including migrant workers, qualified for the publicly supported, municipally administered comprehensive health-care and social welfare system. The public system was supplemented by occupational and private health-care schemes, which all employers were obliged to offer their employees. The objective was to ensure that workers enjoyed a good working environment and good employment conditions. The occupational safety and health-care system was supervised by government inspectors.

20. Mr. THIAM, with regard to article 4 of the Convention, in particular the status of the Convention under domestic law, requested clarification on whether the Convention was in fact directly applicable. He stressed that upon ratification the State party had an obligation to take whatever measures were necessary to ensure the immediate applicability of the Convention.

21. Mr. SHAHI expressed concern about reports from the United States State Department, as well as the Special Rapporteur on contemporary forms of racism (E/CN.4/2003/23, paras. 24 to 30), of attacks against immigrants, in particular Arabs and Muslims, including attacks by skinheads against Muslim-owned businesses and street fights between locals and Somali immigrants. He urged the State party to take approximate steps to combat such racist incidents. He also expressed concern at State Department reports of increased violence against women, including domestic violence, and of trafficking of women. He hoped the State party would make every effort to put an end to those evil practices, in particular by enacting specific laws to punish offenders and by providing adequate resources to the police force for that purpose.

22. He would welcome the delegation's opinion on the situation regarding a book published by a member of Parliament which appeared to incite religious hatred. Turning to the issue of land rights for the Sami minority, he hoped the State party would find a satisfactory solution and

enact legislation which reflected the provisions of the Convention as well as the Committee's General Recommendation XXIII on the rights of indigenous peoples. In that context he also urged the State party to ratify International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

23. Mr. YUTZIS noted that it was stated in the State party's report that the socio-economic position of the Roma was still weak because of their low educational level and the prejudices and discrimination they faced (para. 115). The issues of prejudice and discrimination needed to be dealt with by society as a whole, but the State could act to improve the Roma's educational level. A special effort should be made to meet their needs through the allocation of adequate resources, both financial and human. He wondered whether the authorities had envisaged the use of special methods, such as itinerant and distance education and specific training for teachers working with Roma children.

24. Mr. ABOUL-NASR expressed the view that, with regard to minorities, balance had to be struck between promoting their integration into society and leaving them free to preserve their own culture and way of life if they so desired. With regard to the issue of Islamophobia and prejudice against Arabs and Muslims, he asked whether specific groups or individuals were responsible for attacks against those minorities and whether any measures existed to prevent the dissemination of racist ideas and publications.

25. Mr. KOSONEN (Finland) said that the Convention was directly applicable at all levels in Finland. A basic principle of Finland's legal system was to ensure a human rights-friendly interpretation of all legal texts. The fact that the Convention was not specifically mentioned in every case did not mean that its principles were not respected. The Supreme Court had, for example, often invoked the Convention when overturning domestic legal provisions.

26. Ms. HOLM (Finland) said that most racist attacks in Finland were carried out by small gangs of skinheads, which were active in certain towns, and their victims were mainly Somalis, who were attacked not for their religion but for their appearance. On the subject of violence against women, the investigation of such acts was hampered by the reluctance of victims to report their occurrence. The Government provided resources for programmes to combat domestic violence and to discourage prostitution. The Ministry of Justice was considering legislation that would provide for the prosecution of abusers even in cases where victims were unwilling to press charges. Legislation had already been passed to criminalize the procurement of sexual services.

27. Mr. CORTÉS TÉLLEZ (Finland) said that the Comprehensive Schools Act had been amended in 1990 to make it compulsory for all school-age children, including Roma, to attend school. Unlike Roma communities in other European countries, the Roma minority in Finland was more stable and Roma children attended school in much the same way as the children of the majority population. The school dropout rate in the Roma community was higher, however, and supplementary teaching was therefore provided under the comprehensive schools curricula. The fact that fewer Roma attended pre-university preparatory schools and consequently university also meant that the income levels and social status of adult Roma were lower than those of the majority population.

28. The estimates of the Roma population cited in the report were based on figures provided by the Roma community itself, since national population registers did not reflect ethnic composition and schools were not required to maintain records of the ethnic background of students. A special Roma Training Unit had been established within the National Board of Education to improve the quality of education of the Roma minority and increase school attendance rates. The Unit had launched a project to promote greater awareness within the Roma community of the importance of education in Finnish society.

29. Regarding the need for balance between the integration of ethnic minorities and the preservation of their culture, Finland's immigration policy sought to integrate immigrants into the country's economic, social and political life in a way that enabled them to preserve their own culture and religion.

30. Mr. AARNIO (Finland) said that a constructive dialogue was taking place between representatives of the Sami Parliament and the Ministry of Justice to address land rights and other issues related to the cultural autonomy of the Sami.

31. As for the controversy over the book published by the Finnish parliamentarian, the decision by the Minister of Justice not to prosecute the author reflected a concern to protect the right of citizens to freedom of expression. The claim that the Ministry had taken two years to arrive at its decision was not accurate, since the request for the matter to be investigated had been submitted only in February 2002.

32. Mr. HERNDL (Country Rapporteur), summarizing the discussions, said that Finland had an exemplary record of respect for human rights. It was difficult to see on what grounds that general statement could be challenged by non-governmental organizations. The report presented by the delegation of Finland was comprehensive and forthright and reflected a willingness on the part of the Government of Finland to address any problems that might still exist.

33. He nevertheless wished to make a few brief observations of a specific nature. In light of the fact that the Constitution of Finland had undergone extensive revisions, it might now be useful for the Government to prepare a revised version of the core document (HRI/CORE/1/Add.59/Rev.2), which contained numerous references to the original Constitution.

34. With regard to the status of the Sami, the current rigid definition, which was based either on the language spoken by the person in question or on the previous taxes levied on his or her ancestor, should be replaced by a less legalistic definition.

35. The new accelerated procedure in the revised Aliens Act gave cause for some concern, insofar as it could result in the repatriation of an asylum-seeker while his or her appeal was still pending. Perhaps less stringent procedures could be developed to achieve the same policy objective of discouraging unjustified applications for asylum while providing legal safeguards for asylum-seekers.

36. He noted with satisfaction that programmes, including language classes, were being developed to promote the integration of the Russian-speaking minority into Finnish society. Implementation of the Convention required that States parties raise the level of public awareness

of its provisions. In that connection, he welcomed the efforts of the Government of Finland to promote awareness of the Convention among all sectors of society, including schools and law enforcement agencies.

37. Mr. AARNIO said that those answers which his delegation had been unable to provide at the current session would be contained in the next periodic report of Finland.

38. The delegation of Finland withdrew.

The meeting was suspended at 12.05 p.m. and resumed at 12.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

39. The CHAIRMAN drew the attention of members to a letter from the Division for the Advancement of Women, acting as the secretariat of the Committee on the Elimination of Discrimination against Women, requesting comments on a draft general recommendation currently being elaborated by that Committee. Any comments that members might have could be discussed the following week with a view to transmitting them to the Division for the Advancement of Women.

40. He next drew attention to a letter dated 7 August 2003 from the Chief of the Research and Right to Development Branch of the Office of the United Nations High Commissioner for Human Rights requesting information on the measures adopted by treaty bodies to implement the recommendations addressed to them in the study on human rights and disability undertaken by the Office of the High Commissioner. Members of the Committee could provide information directly to the Chief of the Research and Right to Development Branch.

41. He had also received a letter dated 27 June 2003 from the Chairman of the Committee against Torture inquiring whether, in the discharge of its mandate, the Committee on the Elimination of All Forms of Racial Discrimination had received information that could reveal the existence of the systematic practice of torture in a particular country.

42. Mr. AMIR expressed the view that the Committee should indeed transmit information about acts of torture to the Office of the High Commissioner for Human Rights, whenever the occurrence of such acts was known to the Committee but not officially reported to the Office through other channels.

43. The CHAIRMAN said that, in his personal opinion, it was not for the Committee to provide information to other committees, since the latter often had access to the same sources of information. Such a practice, moreover, would represent a significant increase in the Committee's workload.

44. He then drew attention to a letter from the Permanent Mission of Argentina protesting about the fact that an annex to the periodic report of the United Kingdom of Great Britain and Northern Ireland had concerned the Falkland Islands (Malvinas).

45. After a discussion in which Mr. ABoul-NASr, Mr. LINDGREN ALVES, Mr. BOSSUYT, Mr. HERNDL, Mr. VALENCIA RODRÍGUEZ and Mr. PILLAI took part, the CHAIRMAN suggested that, since the matter did not appear to require any action by the Committee, the Committee should merely take note of the letter.

46. It was so decided.

47. The CHAIRMAN announced that he had received a letter from the Permanent Representative of Israel complaining of the highly politicized way in which the Committee had adopted its decision concerning recent legislative changes in Israel. As had been formally requested, his letter would be included in the Committee's Report to the General Assembly. He wanted to know if any other response to the letter was necessary.

48. Mr. HERNDL said that it would be appropriate for the Chairman to transmit the text of the Committee's relevant decision to the Ambassador. In doing so, he should add a carefully worded letter, addressing the criticism levelled at the Committee which, in his view, had been expressed in unacceptable language. It should be made clear to the Permanent Representative of Israel that the Committee had adopted its decision by consensus and in the full exercise of its responsibilities under its urgent action procedure; that consequently, the Committee could not be accused of "pre-empting and undermining" the normal reporting process; and that the Committee remained committed to its activity of independently and impartially monitoring racial discrimination in all the States parties.

49. The CHAIRMAN asked Mr. Herndl to circulate his suggested wording of the letter among the members of the Committee. The Committee would need to take a final decision on the exact wording of the letter no later than the following Monday morning.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the third to twelfth periodic reports of Cape Verde (CERD/C/63/draft CO/3)

50. The CHAIRMAN invited the Committee to consider the document paragraph by paragraph.

Paragraphs 1 to 3

51. Paragraphs 1 to 3 were adopted.

Paragraph 4

52. Mr. LINDGREN ALVES (Country Rapporteur) explained that he had included the paragraph because several members of the Committee had asked the delegation for information about Cape Verde's ethnic composition; no Cape Verdeans could be identified as belonging to a single ethnic group because they were all racially mixed.

53. Mr. THORNBERRY, supported by Mr. AMIR, Mr. SHAHI and Mr. PILLAI, objected to the word “miscegenation” and suggested replacing it by another word such as “admixture” or “intermingling”.

54. Mr. ABOUL-NASR said that some of the language used in the paragraph might be difficult for non-native English-speakers to understand.

55. The CHAIRMAN said that the document would be translated into all other official languages and what was most important was that the State party should understand its meaning.

56. Mr. LINDGREN ALVES said that he had discussed the matter with members of the Cape Verdean delegation and they had been happy with the wording.

57. Mr. THIAM wondered whether it might nonetheless be preferable to delete the paragraph.

58. Mr. SICILIANOS said that the paragraph should be maintained but appropriately amended.

59. Mr. YUTZIS said that he found the word “intermingling” and its Spanish equivalent (“mezcla”), appropriate in that context.

60. Paragraph 4, as amended, was adopted.

61. Paragraphs 5 to 13 were adopted.

Paragraphs 14 and 15

62. The CHAIRMAN, speaking as a member of the Committee, suggested that both paragraphs should be deleted since they did not refer directly to matters of racial discrimination.

63. Mr. LINDGREN ALVES said that he would not oppose their deletion.

64. Mr. de GOUTTES said that he would regret the deletion of both paragraphs, in particular paragraph 14, which perhaps should instead be moved to section C, “Positive aspects”. That was because the Cape Verdean Government deserved recognition of its considerable efforts to address the major problem of trafficking in human beings. He said that paragraph 15 should also be maintained, subject to drafting improvements.

The meeting rose at 1.05 p.m.