



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-fifth session

SUMMARY RECORD OF THE 1938th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 5 August 2009, at 3 p.m.

Chairperson: Ms. DAH

CONTENTS

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

Seventeenth to nineteenth periodic reports of Poland

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The meeting was called to order at 3.15 p.m.

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

Seventeenth to nineteenth periodic reports of Poland (CERD/C/POL/19;
CERD/C/POL/Q/19; HRI/CORE/1/Add.25/Rev.2)

1. At the invitation of the Chairperson, the members of the delegation of Poland took places at the Committee table.
2. Ms. RADZISZEWSKA (Poland), introducing the State party's seventeenth to nineteenth periodic reports (CERD/C/POL/19), said that the Committee's previous concluding observations had formed the basis of the Government's policies aimed at eliminating racial discrimination since 2003. During the reporting period and subsequently, a number of steps had been taken to enhance guarantees for equal treatment irrespective of race, sex, ethnic or national origin, religious belief, political affiliation, age or sexual orientation. Furthermore, her country had joined the European Union on 1 May 2004, thus accepting all its legislation and the resultant obligations to combat all forms of discrimination.
3. On 18 May 2004, the Government had adopted the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, details of which were provided in the written reply to question 3 of the list of issues (document without a symbol, distributed in the meeting room in English only).
4. One important legislative instrument that had been adopted during the reporting period was the Act on National and Ethnic Minorities and Regional Language, passed on 6 January 2005. Details of the Act and the Joint Commission of Government and National and Ethnic Minorities established to ensure its implementation were provided in paragraphs 83-87 and in the written reply to question 1 of the list of issues. Moreover, in April 2008 the Council of Ministers had approved a regulation appointing the Government Plenipotentiary for Equal Treatment, with the task of increasing the effectiveness of the government institutions responsible for protection against discrimination; details were provided in the written reply to question 2 of the list of issues. In addition, since November 2004, the Monitoring Team on Racism and Xenophobia at the Ministry of Interior and Administration had been charged with cooperating with all the relevant actors to collect information about cases of discrimination on ethnic and racial grounds. Details of the Monitoring Team's work were available in paragraph 128 of the periodic report and in the written reply to question 2 of the list of issues.
5. As a result of the coordinated efforts of those institutions, the number of cases of racial discrimination that had been dismissed on the grounds that they caused negligible social harm had fallen to zero. Moreover, in cooperation with non-governmental organizations (NGOs), they had raised public awareness of racial discrimination. In order to further improve the situation, from October 2009, the police would be trained in combating hate crimes, with the assistance of the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights in Warsaw. Prosecutors, judges and civil servants would continue to receive training on counteracting racism and xenophobia.

6. The Government was committed to the full integration of the Roma community in Polish society. In the light of the success of the three-year pilot project to improve the situation of the Roma communities in the province of Małopolska, a new programme had been launched in 2004, details of which were given in the periodic report and the written replies to the list of issues. The programme provided, inter alia, for education scholarships for Roma students and gifted Roma children. Roma children were no longer taught in separate classes, but were fully integrated in the mainstream education system.
7. Human rights education had become part of the school curricula at all levels. To facilitate the teaching of human rights, a Council of Europe handbook for teachers had been translated into Polish. Since early 2009, an interdepartmental taskforce had been drafting recommendations on action to be taken by the public administration to further improve education for children from all racial and cultural groups.
8. In May 2008, the Government had implemented the European Union Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. As a result, foreigners entering her country who did not meet the criteria for refugee status, but for whom it was unsafe to return to their country of origin, were granted additional protection. The conditions in centres for those applying for refugee status had improved significantly.
9. While trafficking in persons was not recognized as an offence under Polish legislation, the Government implemented the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings and the Palermo Protocol. It was also taking steps to include the definitions of trafficking in persons in those international instruments in the Penal Code. Human trafficking formed part of training courses for judges and prosecutors, and designated coordinators in human trafficking provided assistance in complex cases. Additional details on Government action against trafficking in persons were provided in the written reply to question 4 of the list of issues.
10. The Government had published a draft of the periodic report currently under consideration on its website in order to facilitate NGO participation in the preparation of the report. The Government had studied all NGO responses carefully. The final version of the periodic report and the Committee's concluding observations were also posted on the Government website.
11. Mr. AMIR (Country Rapporteur) commended the State party on the regularity of its reports and their presentation in line with the Committee's reporting guidelines (CERD/C/2007/1). After providing an overview of the geographic situation and history of Poland, highlighting the successive partitions it had suffered and the tragic events that had occurred during the Second World War and its aftermath, he turned to part I of the periodic report. While the State party's courts had not invoked the Convention during the reporting period, he asked whether any offences involving racial discrimination had been reported during that period.
12. He welcomed the regional seminar on combating racism held in Warsaw in 2000 in preparation for the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the various legislative measures taken that demonstrated the State party's commitment to eliminating all forms of racial discrimination.

13. Noting the emphasis in the State party's report on European Union legislation, he underlined the primacy of international treaties over regional laws and directives, notwithstanding Poland's obligations as a member State of the European Union. Articles 118, 119 and 256 of the Penal Code did not seem sufficient to deter acts of racial discrimination, and procedures for submitting complaints of racial discrimination to the police and other authorities and the right of victims to information should be clarified. Nevertheless, he welcomed legal provisions prohibiting racial discrimination at work. Social and administrative reforms and the creation of regional governments had facilitated measures to eliminate racial discrimination in all spheres and improved implementation of the Convention.

14. Alternative reports received from NGOs had raised a number of issues, including racial profiling and negative attitudes towards groups such as Arabs, Muslims and Roma. Poland was one of the few European countries yet to establish a State body to address racial discrimination and ensure equality. The situation of Chechen refugees, particularly in terms of temporary residence and health considerations, gave rise to concern, as did attitudes towards minority groups whose physical appearance differed from that of the majority.

15. With reference to justice and security, he suggested that crimes aggravated by racial factors should be punished more severely. Acknowledging the concerns of States regarding terrorism, he stressed the importance of avoiding racial discrimination in counter-terrorism measures. In conclusion, he praised the enormous progress made by the State party, especially when its history was taken into account.

16. Mr. AVTONOMOV requested further information on progress made in the area of education for Roma children, particularly in terms of legislation. Was it possible for Roma children to receive an education in their own language? Was the Roma language taught in its written and oral forms? He also enquired about relations between Roma communities and law enforcement agencies. The Committee had made several general recommendations in the past in that regard with a view to promoting cooperation. He asked whether Roma could and did work as police officers and, if so, whether they were deployed in areas with large Roma populations. With regard to legislation, he asked whether European Union Council Directive 2000/43/EC which implemented the principle of equal treatment between persons irrespective of racial or ethnic origin, had been fully translated into all areas of Polish law.

17. Mr. DIACONU, referring to paragraph 82 of the periodic report, asked what distinguished a national minority from an ethnic minority and why such a distinction had been drawn. Did the distinction have an impact on the human rights or legal status of those concerned? Furthermore, how did the Kashubian linguistic minority differ in status and composition from a national minority? With regard to electoral procedures, he asked why only the German minority appeared to have taken advantage of the threshold waiver described in paragraph 142 of the report and enquired about the extent of participation by national minorities in public administration at all levels. Referring to paragraph 143, he sought clarification on the authorization for organizations of national minorities of nationwide scope to participate in a nationwide referendum. Referendums, by definition, should be inclusive. Did the provision imply that some groups were excluded from participation?

18. Turning to the issue of education for Roma children, he expressed satisfaction at the explanation provided in paragraph 35 concerning separate Roma classes, but asked whether instruction was provided through the medium of the Roma language, either written or spoken, as occurred in other Eastern European countries.

19. Reports received from NGOs seemed to indicate an institutionalized tendency to attribute blame to foreigners in cases of conflict with Polish citizens. In addition, all refugees were required to pass health tests. Such a practice was discriminatory and should be applied universally or not at all. Measures should be taken to ensure the elimination of discrimination, hostile attitudes and violence towards foreign groups of obviously different physical appearance, particularly on the part of youth organizations affiliated to political parties. To that end, it was essential that the Convention and Poland's comprehensive legislation be implemented. It was incumbent upon those concerned with human rights to defend those rights regardless of political considerations.

20. He drew attention to the European Commission's view that Poland's legislation did not fully comply with European Union Council Directive 2000/43/EC. He also observed that the State party should establish a national human rights body, preferably independent of both government and parliament.

21. Mr. THORNBERRY, referring to the distinctions made in Poland between the rights of national minorities and of ethnic minorities, said that, while a State might be perfectly entitled to designate certain groups as national minorities, any ensuing differences in the rights of broadly similar groups could raise an issue of discrimination. He therefore enquired about the nature of the differences between national and ethnic groups, noting that the principle of non-discrimination was applicable not only to individual rights but also to the rights of groups.

22. He noted with approval the reference in the report to a judgement by the Constitutional Tribunal that had cited the provision concerning the right to inherit in article 5 (d) (vi) of the Convention. It was a reminder to the Committee of a right that had perhaps been neglected to date in its deliberations.

23. According to the report, students attending national minority schools learned about the history of their country of origin but not the history of Poland in their own language. He wondered whether consideration had been given to a more intercultural approach to learning, in line with the recommendations of the Council of Europe and the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. He asked to what extent intercultural elements were factored into educational practice.

24. With regard to the Romany language, he noted that Poland had opted for an integrated education model. He submitted, however, that absorption into a school system that did not recognize one's mother tongue or the language of one's cultural heritage might entail major pedagogical difficulties. In that connection, he drew attention to the recommendations of the First United Nations Forum on Minority Issues on "minorities and the right to education". According to one recommendation, while policies resulting in separate classes on a discriminatory basis should be prohibited save in exceptional circumstances, the creation and development of classes and schools providing education in minority languages should not be

considered as impermissible segregation if attendance was voluntary. At the same time, where separate schools for minorities were established, no barriers should be erected to prevent members of minority groups from studying at general educational institutions. It was thus necessary to strike a delicate balance. Under another Forum recommendation, States were encouraged to provide adequate opportunities to persons belonging to minorities to learn their mother tongue or to study through the medium of their mother tongue. They were also encouraged to engage in consultations with persons belonging to minorities in order to take their freely expressed wishes into account.

25. Noting that a slightly different educational model was applied in the case of Roma, he enquired about the material differences involved.

26. He also asked the delegation to respond to reports that only a limited number of refugee children took advantage of educational opportunities.

27. Mr. EWOMSAN welcomed the introduction of training courses for police officers on the procedure to be followed with respect to racist acts and on action to prevent offences with an ethnic dimension. He also commended the organization of training sessions to enhance the security of the Roma people and increase their awareness of victimization and legal issues, as well as the implementation of the Programme for the Roma Community aimed at promoting their full participation in the life of society.

28. He remained concerned, however, about the situation of communities of African, Asian or Arab origin. According to NGO reports, the number of racist crimes was increasing. He asked whether the delegation could account for that phenomenon and whether special measures were contemplated to deal with it. Was it a reflection of social and economic difficulties or, rather, a reaction motivated by self-defence and triggered by the country's turbulent history? In any case, he wished to know how the judicial system dealt with racist offences and whether the State intended to design awareness-raising strategies to promote reconciliation between Poles and victims of racial hatred and to foster a culture of tolerance and peace.

29. Mr. de GOUTTES commended the report on its response to many of the Committee's concluding observations on Poland's previous periodic report. He also welcomed the establishment of the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, the programmes on behalf of national, ethnic and linguistic minorities, the Police Commanders' Plenipotentiaries for Human Rights Protection, the Programme for the Roma Community, and the Monitoring Team on Racism and Xenophobia at the Ministry of the Interior and Administration.

30. The national legal provisions aimed at countering racism, especially in the Penal Code and the Labour Code, seemed to be broadly consistent with article 4 of the Convention, but they reportedly still fell short of the requirements of relevant European Union directives.

31. He was particularly pleased with the detailed statistical data presented in the report, for instance concerning the number of prosecutions for racist offences.

32. In its previous concluding observations, the Committee had expressed concern about cases of incitement to racial hatred, anti-Semitic publications, desecration of cemeteries and actions by young extremists that were not properly investigated or prosecuted. As the problem seemed to have persisted, he asked the delegation to review all measures taken by the authorities to deal with such phenomena, including racist graffiti and stereotyping and anti-Semitic materials published on the Internet.

33. He wished to know whether the provisions of the Penal Code mentioned in paragraph 118 of the report provided for aggravating circumstances where offences were racially motivated.

34. With regard to the situation of Roma children, he enquired about the role played by the Ombudsman for Children on their behalf and the progress made in integrating them into ordinary schools. According to the report, the number of Roma classes had decreased, and were now fewer than 10. He wondered what had happened to the special classes and whether their disappearance had been anticipated.

35. He asked for details regarding the “permit for tolerated stay” accorded to some foreigners, particularly Chechens from the Russian Federation. The Committee had been informed that they were not eligible for the social assistance granted to asylum-seekers and were not admitted to the integration programmes for recognized refugees.

36. According to the State party, a number of NGOs had been consulted during the preparation of the periodic report. He wished to know which NGOs had offered contributions and to what extent they had been taken into account.

37. Mr. LINDGREN ALVES said he took it that Poland’s ratification of the Council of Europe Framework Convention for the Protection of National Minorities in 2000 had prompted it to include a question about nationality and the language used at home in its 2002 National Population and Housing Census. As a result, Parliament now recognized nine national minorities and four ethnic minorities, which was somewhat surprising in the light of the claim in the core document (HRI/CORE/1/Add.25/Rev.2) that Poland was a homogeneous country. He found the recognition in the same context of Kashubian, the language of the great German writer Günther Grass, as a “regional language” somewhat odd.

38. According to the report, national and ethnic minorities were allowed to form associations. Could they also form political parties and, if so, could such a party be based exclusively on a particular nationality or a people belonging to a specific ethnic minority? If the European Union and European legislation were so concerned with the protection of minority rights, why did Poland prohibit the processing of data disclosing ethnic origin? It might be viewed by some observers as evidence of Europe’s latent refusal of the other and of differences in general. He wondered whether it helped to avoid ultra-nationalism or whether, on the contrary, it stimulated right-wing trends in politics.

39. Mr. PROSPER regretted that the report contained little information about the situation of Africans, Asians and Arabs who were vulnerable to racism. He would appreciate additional information and statistics regarding their presence in Poland.

40. Mr. KEMAL referred to the fact that Poland would be hosting the European Football Championship in 2012. Concern had been expressed about the deep-rooted racist nationalism among Polish sports fans. Their chauvinism tended to manifest itself against those visibly different from the majority of the population. A British Broadcasting Corporation sports journalist who had reported on a match in Poland in 2008 claimed to have felt very insecure during the event, comparing the behaviour of the fans with that of English football hooligans 20 years previously. While he conceded that Poland had made considerable strides in combating racism, neo-Fascism and hate speech and in protecting minorities, he would be grateful for any information about how the Government proposed to deal with the conduct of a minority of sports fans.

41. Ms. RADZISZEWSKA (Poland) said that the legacy of previous systems of government, under which little value had been accorded to individual rights, was reflected in deeply entrenched, discriminatory perceptions of minorities that could only be changed over time. Great efforts had been made in recent years to promote greater openness, and non-discrimination and equality were high on her Government's agenda.

42. The Government Plenipotentiary for Equal Treatment appointed on 30 April 2008 was responsible, inter alia, for analysing the impact of legal regulations on issues relating to equal treatment and monitoring the implementation of anti-discrimination legislation and policies in public institutions and the media. The Monitoring Team on Racism and Xenophobia collected data and information on events relating to racially motivated discrimination. It also monitored the examination of such cases by the public authorities and cooperated closely with NGOs. Public officials found guilty of racial discrimination were punished.

43. New Penal Code provisions had been adopted to criminalize hate speech, incitement to hatred and the publication of racist materials.

44. Implementation of the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance had stalled with the suspension of the post of Government Plenipotentiary for Equal Status of Women in 2005. As the then Government had failed to designate an institution to take over the task, implementation had been resumed only recently with the establishment of the Government Plenipotentiary for Equal Treatment, who coordinated all action taken under the Programme.

45. Turning to Mr. Kemal's remarks, she said new legislation had been passed to address the problem of racism in sport. It was now prohibited for fans to wear scarves or headwear concealing their identity, since anonymity had often been used as a cover for engaging in racist behaviour in and around sporting events. Persons violating the new provisions were banned from sports grounds. Police officers had been specially trained to tackle racist behaviour during sporting events and a multi-agency team had been set up to advise the Government on ways to enhance security during such events. In cooperation with the Polish Olympic Committee, programmes and educational strategies were being developed to raise the awareness of youth in amateur sports. School visits to the Polish Olympic Committee were used as an opportunity to educate children about racism and equality.

46. On 16 October 2009, a conference would be organized in cooperation with the Polish Olympic Committee, the Government Plenipotentiary for Equal Treatment and the Ministry of National Education and Sport for the presidents of all Polish sport clubs. The keynote speaker for the first part of the conference, which was dedicated to the elimination of racism, would be a representative of the NGO Nigdy Wiecej (Never Again), and participants would be encouraged to sign an honorary petition on the elimination of racism in sport. In October 2009, the Polish Football Association would incorporate anti-racism regulations issued by the International Federation of Association Football (FIFA), which laid down severe penalties for sports clubs that failed to act against racism in and around sport events. The rules provided, for example, for the suspension of games when supporters or players engaged in racist behaviour; football clubs that failed to abide by those rules might be disqualified from the corresponding league.

47. A football game between professional players and a team made up of film and media celebrities had been scheduled for autumn 2009 as part of a wider anti-racism campaign. The game was the first of its kind and was aimed at involving celebrities in the fight against racism in sport. Money collected from fans would go to primary-school Roma football teams, as part of efforts to increase the involvement of Roma children in school sport.

48. In cooperation with the Ministry of Education, staff of private and public tertiary education establishments were trained to deal with racist or discriminatory behaviour in universities. All textbooks and other teaching materials were being reviewed for racist or xenophobic content. Some of the experts involved in the project had already submitted their comments, on the basis of which the textbooks would be either revised or withdrawn from circulation. New educational curricula had been drawn up that took account of the need to foster tolerance and promote respect for the rights of national and ethnic minorities. Those efforts were particularly relevant in rural areas where people might be unaccustomed to foreigners. The mayor of one rural Polish community was of African descent, and information about such cases was used to raise awareness of the growing contribution of migrants to Polish society.

49. The Government Plenipotentiary for Equal Treatment also cooperated with the health authorities in promoting anti-discriminatory practices in health care. All persons had access to health care, irrespective of their origin.

50. Mr. AVTONOMOV requested additional information on the complaints submitted to the Ombudsman for Children. He also wished to learn more about the situation of the Karaim in the State party. While the Karaim community had had some 100 members in the 1980s, their numbers had dwindled to 43 and he enquired about the reasons for that decline.

51. Mr. de GOUTTES drew attention to paragraph 239 of the report, which mentioned the stipulation in the Act on Radio and Television Broadcasting that programmes or other broadcasts should respect the religious beliefs of the public and especially the Christian system of values. Given the increasingly multireligious nature of its society, the State party might wish to consider amending those provisions so as to take account of other religious communities living in its territory.

The meeting rose at 5.50 p.m.