



# International Convention on the Elimination of All Forms of Racial Discrimination

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

### Summary record of the 2195th meeting

Held at the Palais Wilson, Geneva, on Monday, 27 August 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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*The meeting was called to order at 3.05 p.m.*

### **Organizational and other matters**

*Dialogue with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance*

1. **The Chairperson** welcomed Mr. Ruteere, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and invited him to give a brief presentation of his activities to the Committee.
2. **Mr. Ruteere** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that, in his first thematic report to the Human Rights Council in June, he had emphasized the importance of preventive measures in eliminating racism, and that he intended to further analyse the issue by identifying good practices. During the session of the Human Rights Council, he had also submitted a report on the implementation of General Assembly resolution 66/143 on the inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which highlighted the threat represented by extremist parties, movements and groups. In both reports, he had made use of the Committee's work, including with references to some of the general recommendations. In the course of his mandate, Mr. Ruteere intended to focus on a number of priorities: the challenges posed by certain contexts such as the economic crisis, conflict situations, transitions and terrorism; racism and poverty; gender-based and multiple discrimination; new manifestations of racism; and extremism. The Rapporteur asked the Committee members' views on areas that could form the subjects of future thematic reports, as well as on how to address certain issues, such as multiple discrimination, structural discrimination and the issue of sexual orientation. He also wanted to hear Committee members' opinions on how to deal with an aspect of his mandate that had as yet been little studied: intolerance related to contemporary forms of racism and discrimination.
3. Like his predecessors, Mr. Ruteere intended to give priority to the victims: members of minorities, people of African descent, victims of anti-Semitism, refugees, asylum seekers, migrants and members of indigenous peoples, and would ensure that all victims received the same attention. Communications sent to Governments were an important aspect of his mandate and contributed greatly to improving the fate of victims of discrimination and intolerance. In that respect, the Committee played an essential role in addressing individual cases through its complaints procedure. He emphasized the complementarity between his mandate and that of the Committee, especially in the case of States that had not made the declaration provided for in article 14 of the Convention. He asked the Committee members how their collaboration in that area could be strengthened. The Rapporteur attached great importance to country visits and hoped to strengthen his collaboration with the Committee in preparing such visits and in drawing up the subsequent recommendations. The publication of joint press releases on specific issues or countries could be considered. He asked the Committee how they could intervene effectively together in urgent situations, including conflict situations, and requested details of the Committee's Early Warning Measures and Urgent Procedures. He expressed interest in knowing more about the Committee's work related to the Decade for People of African Descent and the prevention of and fight against racism in sport. In conclusion, he asked whether the Committee had any specific ways of following up its recommendations from which he could draw inspiration for his own recommendations.
4. **Mr. Amir** said that the Rapporteur should conduct visits to those countries where racism was an especially serious problem to meet not only political leaders, but also representatives of the intellectual community, who had a different perception of racism

from that of the international experts. Dialogue with them was the only way to fight racism effectively and to change perceptions in society.

5. **Mr. de Gouttes** said that individual communications were a very good indicator of the phenomena of racism. He pointed out in that connection that 9 of the 51 complaints the Committee had received recently concerned racist and xenophobic hate speech, mainly against Muslim, Jewish, Roma and Somali communities and persons of Turkish origin. The consideration of communications had enabled the Committee to develop useful case law in this area. Mr. Ruteere might find useful information on which to base indicators in the report he had just received of communications sent to the Committee.

6. **Ms. Crickley** suggested that the Rapporteur might study further the links between racism and poverty. The correlation between the recognition of rights and the redistribution of wealth was indeed often overlooked, including by the national and international human rights mechanisms. Also, the consideration of multiple forms of discrimination, including discrimination against women, discrimination on the grounds of sexual orientation and structural discrimination, and their links with racial discrimination, was a very positive initiative, as those questions were rarely addressed and too frequently politicized. The best initiatives to combat racism in sport of which she was aware were often local ones and had very beneficial effects on inter-community relations and the reduction of racial discrimination.

7. **Mr. Thornberry** described the procedure for follow-up to the Committee's concluding observations. In recent years, there had been an increase in the rate of response by States and growing participation by national human rights institutions in the follow-up. Country visits were not part of the Committee's normal working methods, which were based primarily on written documents. The Committee had interpreted its mandate restrictively, limiting it to the five grounds of discrimination listed in the Convention, namely race, colour, descent, and national and ethnic origin. It focused on ethnic minorities, indigenous peoples, non-citizens, members of castes and people of foreign origin, combining those grounds of discrimination with discrimination on the grounds of sex and religion, but the list was limited and not all grounds of intolerance were included. With respect to the links between racial discrimination and poverty, economic, social and cultural rights were mentioned in article 5 of the Convention, and the Committee could emphasize that aspect if it so wished.

8. **Mr. Murillo Martinez** said that, at its previous session, the Committee had adopted a general recommendation that had been communicated to the Working Group of Experts on People of African Descent, which was responsible for developing a programme of action in the framework of the Decade for People of African Descent. The recommendation had been very well received and integrated into the plan of action.

9. **Mr. Ruteere** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that racism was constantly taking new forms and one had to be alert to its various manifestations. That was why his mandate covered contemporary forms of racism and allowed him to address the issue and its links with other phenomena in a holistic manner. He said he intended to visit all parts of the world, because the problem of racism was not restricted to a single region, and he undertook to continue working together with the Committee.

#### **Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)**

*Fourth to sixth periodic reports of Liechtenstein (CERD/C/LIE/4-6, CERD/C/LIE/Q/4-6) (continued)*

10. *At the invitation of the Chairperson, the delegation of Liechtenstein took places at the Committee table.*

11. **Mr. Frick** (Liechtenstein) explained that the international instruments ratified by Liechtenstein were directly applicable in domestic law and could be invoked by the courts, without the need for special implementing legislation. Under article 15 of the Constitutional Court Act, the rights enshrined in international instruments carried the same weight as constitutional rights.

12. **Mr. Meier** (Liechtenstein) said that the Aliens Code provided that nationals of third countries that were not part of the European Union were required to sign individual integration agreements. Aimed at providing personalized individual assistance to migrants who did not have permanent residence, the integration agreements focused on learning German and being introduced to the country's culture in the form of civic education and history classes with a knowledge assessment test. On their arrival in Liechtenstein, foreigners were invited to meet with a member of the Immigration Office, who would give them advice on how they could receive funding (of up to 2,400 Swiss francs per person) for German classes and direct them to the various integration support services. Only third country nationals were required to learn German; European Union nationals were simply encouraged to do so. The Commission on Integration Issues worked with various aliens' associations to encourage migrants of European origin to learn German. Those initiatives had produced satisfactory results, in particular in the country's Italian community.

13. Liechtenstein preferred to speak of diversity rather than of interculturalism or multiculturalism, because those terms could be confusing and have negative connotations. Interculturalism certainly implied a healthy exchange between cultures, but the word "diversity" was preferred for its more positive and optimistic connotation. In Liechtenstein, interaction and exchange of experience between the different cultures were encouraged, particularly in the context of artistic and cultural projects to foster dialogue between people of different origins, with the active participation of local associations. Set up eight years previously, the Working Group on the Promotion of the Integration of Muslims was headed by the Immigration Office, with the participation of influential members of the Muslim community. Its aim was to promote mutual tolerance and intercultural dialogue. The Working Group had decided that religious education classes for Muslims would be taught in German. There were also ongoing talks about the construction of a Muslim cemetery in the country. He explained that article 39 of the Aliens Code allowed a residence permit to be granted or extended in cases of hardship. Those included cases of divorce with shared custody of the child and cases of family violence.

14. **Mr. Hoch** (Liechtenstein) explained that, following the recommendations made by the Committee in 2007 (CERD/C/LIE/CO/3), a study had been carried out of extreme right-wing movements in order to gain a better understanding of the social context of the phenomenon and to find out what was pushing some young people to subscribe to extreme right-wing ideology. The study was based on interviews with experts, victims and right-wing extremists. While it had not revealed the root causes of the phenomenon, the study had nevertheless shown that persons close to the extreme right felt legitimized in their opinions as they had the impression that the ideology, particularly xenophobia, was accepted by the majority of the population. It also showed that most of the people interviewed were well integrated in society, but felt threatened by the arrival of migrants and feared that their national identity was being threatened. Following the study, the Government had decided to adopt a plan of action to combat the extreme right. Centred around a public awareness campaign entitled Show your Face against Right-wing Violence, the action plan for the period 2010–2015 was also based on prevention and information aimed at target groups, such as the police, judges and persons in contact with young people. In addition, a dialogue unit had been set up to help victims of extreme right-wing violence,

who could also apply to the Victims' Protection Office for compensation for injury suffered. For the previous two years, cases of violence attributed to extreme right-wing groups had been identified and monitored by an independent body. Such measures had made it possible to break down the taboos and gain a better understanding of the phenomenon of the extreme right. Thanks to the zero-tolerance strategy adopted by the investigation and prosecution agencies, and to active surveillance by the police, no cases of violence linked to the extreme right had been recorded in 2011 or 2012. Furthermore, right-wing extremists from neighbouring countries who had committed acts of violence had been brought to justice and some of them had been deported. Liechtenstein had only one prison, which included a wing for illegal migrants. It was administered by the Ministry of Internal Affairs and was separate from the wing where criminals were held, which came under the responsibility of the Ministry of Justice. Detained migrants were therefore not held together with offenders.

15. **Mr. Haun** (Liechtenstein) said that freedom of association was fully guaranteed in Liechtenstein, but that article 283 of the Criminal Code prohibited participation in the activities of organizations that incited racial discrimination. The Liechtenstein Court of Appeal had ruled that the mere fact of renting premises or meeting for the purpose of conducting activities prohibited by article 283 of the Criminal Code was punishable by law. Furthermore, article 33 of the Criminal Code specified that racial motivation for a criminal offence was an aggravating circumstance. In 2010, eight people had been sentenced to prison terms, seven of them to suspended sentences, for having set up an association that incited racial hatred. A request by the Colorida association calling for an amendment to prohibit public displays of racist emblems had been rejected, as it was already provided for in article 283 of the Criminal Code.

16. **Mr. Potolidis-Beck** (Liechtenstein) said that the naturalization procedure had been facilitated with the revision of the Nationality Act in 2008. The Act established two naturalization procedures: one regular procedure for foreigners who had lived in the territory for 10 years, the final decision being subject to a public vote in the municipality in which they had resided for the previous 5 years; and a simplified procedure that applied to foreigners who had been established in the country for 30 years and the outcome of which was not subject to the result of a municipal vote. The residency requirement for naturalization for spouses of citizens of Liechtenstein was five years, on the understanding that they must renounce their former nationality. Other requirements were a good command of German, and some knowledge of the country's history. Figures for naturalizations showed that, since the adoption of the Facilitated Naturalization Act in 2000, the number of applications for naturalization through the ordinary procedure had decreased. No requests had been recorded under that procedure in 2011, while 116 people had been naturalized under the facilitated procedure that year. A public debate had begun recently on the conditions for naturalization and liberalization of the immigration system. The Minister of Foreign Affairs communicated very transparently with NGOs and had held discussions with them in November 2011, particularly to inform them of the content of Liechtenstein's periodic report to the Committee. The lack of institutional resources explained why NGOs were not involved in the preparation of the reports submitted to the treaty bodies; however, that did not mean they were not active in defending human rights. Liechtenstein had not yet lifted its reservations to article 8 of the European Convention on Human Rights, to article 17, paragraph 1, of the International Covenant on Civil and Political Rights, or to article 10 of the Convention on the Rights of the Child. The process towards them being lifted would take time because of the complexity of the issues involved.

17. **Ms. Schädler** (Liechtenstein) explained that many measures had been taken in recent years to recruit teachers with intercultural skills and to promote tolerance and understanding in schools. The initial training of multicultural teachers took place abroad due to the lack of suitable structures in the country, but the teachers remained under the

supervision of the Office of Education. Human rights education had been integrated throughout the school curricula, including at pre-primary level.

18. **Mr. Potolidis-Beck** (Liechtenstein) said that the new Asylum Act that had come into force in June 2012 complied fully with the relevant European standards and incorporated the obligations Liechtenstein had assumed on its formal entry into the Schengen area. It covered support for asylum seekers and persons admitted temporarily to Liechtenstein, and specified the conditions for the granting of refugee status and the conditions of stay in a member State of the Schengen area other than that where the application for asylum had been submitted and accepted. Thirty Somali and Eritrean asylum seekers and who had requested political asylum in Italy before Liechtenstein joined the Schengen area were still in the country; half of them had been granted refugee status and the others had temporary residence permits. A foreigner could be admitted to Liechtenstein for temporary residence if he or she did not meet the criteria for political asylum but could not return to the country of origin because of the situation there. Many Yugoslav nationals had thus been granted refugee status for humanitarian reasons since the 1990s, and many Vietnamese and persons from Tibet who had received refugee status had since been naturalized. There were no data on the number of asylum seekers who had jobs but experience showed that everyone who wanted to work could find a job within a reasonable time. As asylum seekers had to provide for their needs, they were allowed to work without any time restriction. Their wages, minus the cost of accommodation and food, were paid to them at the end of the asylum procedure.

19. **Mr. Ritter** (Liechtenstein), responding to a question from Mr. Murillo Martinez, explained that the data in table 4 of the report were based on nationality, not ethnic origin, and so he could not say how many people of African descent were unemployed. Liechtenstein had decided to establish a fully independent national human rights institution consistent with the Paris principles to be granted category A status with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The Government was considering making the new institution responsible for implementation of the recommendations emanating from the universal periodic review and for follow up to the recommendations made by the treaty bodies.

20. **Mr. Kut** said that the statistics on asylum applications listed in table 1 of the report (para. 13) were not very meaningful because the categories used to disaggregate the data were very unclear. He asked why the statistics were not disaggregated by country of origin. In addition, from the figures given in table 6 (para. 29), it could be inferred that two thirds of the naturalization applications submitted to a public vote during the period 2004–2009 had been rejected. It would, in that regard, be helpful to receive information on the national origin of those persons whose applications for naturalization had been accepted or rejected, as that would enable the Committee to determine whether certain categories of foreigners were subject to discrimination when decisions were taken as a result of a public municipal vote. Finally, he asked whether the State party had assessed the effectiveness of its programmes to fight racial discrimination.

21. **Mr. Vázquez** noted that the requirements for obtaining nationality of Liechtenstein were extremely high, with candidates having to prove 30 years of residence in the country. He wished to know whether the State party intended to relax them.

22. **Mr. Potolidis-Beck** (Liechtenstein) said that, as the Statistics Act prohibited the publication of data that could be used to identify individuals, the statistics were not disaggregated by national origin. There were in fact so few foreigners in Liechtenstein that it would be easy to identify the individuals represented by the numbers if the statistics were disaggregated by country of origin.

23. **Mr. Hoch** (Liechtenstein) said that Liechtenstein did not yet have any programmes to assess the effectiveness of its policies to combat racial discrimination, which was indeed a shortcoming. It should though be noted that many factors came into play in the field of social sciences and it was very difficult to determine whether a change in behaviour was the result of a programme being implemented or of other influences. In-depth discussions had been started on that complex question, but no solution had as yet been found.

24. **Mr. Frick** (Liechtenstein) recognized that it was unreasonable to require applicants for naturalization to have resided in the country for 30 years, but stressed that discussions were in progress on reducing the length of stay required.

25. **Mr. de Gouttes** said that, if he had understood correctly, Liechtenstein considered it unnecessary to pass a specific act on racial discrimination because the Convention was directly applicable in the courts; however the Convention did not specify the applicable penalties and it was up to the States parties to develop laws criminalizing acts of racial discrimination and providing for the corresponding penalties. Domestic legislation did qualify racist grounds for an offence as an aggravating circumstance, but that of itself did not define the offence. The delegation was invited to respond to those comments.

26. **Mr. Lindgren Alves**, referring to the information provided in paragraph 67 of the report, asked whether there were separate schools for Muslim children, whether classes on Catholicism and on Islam were provided for all children in public schools and whether religion classes were optional or mandatory.

27. **Mr. Saidou**, noting that the 1999 law on sex equality reversed the burden of proof in cases of sex-based discrimination, asked whether the same was true for racial discrimination cases.

28. **Mr. Haun** (Liechtenstein) said that in criminal matters and, therefore, in cases of racial discrimination, the burden of proof was on the prosecutor. It was inexact to say that Liechtenstein had not passed legislation on racial discrimination because article 283 of the Criminal Code established nine acts of racial discrimination in criminal offences.

29. **Ms. Schädler** (Liechtenstein) said that religion classes were compulsory in public schools and they included the study of different religions. Children could also attend optional catechism or other classes, at the request of their parents.

30. **Mr. Amir** (Country Rapporteur) noted with appreciation that, despite the short time it had had to prepare, the delegation had responded to the Committee's many questions. He also noted that the State party had made efforts in several areas to help foreigners integrate into society, that Liechtenstein defined itself as an intercultural State, and that it intended to set up a national human rights institution in accordance with the Paris principles.

*The meeting rose at 6.05 p.m.*