



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
2 June 2014
English
Original: French

Committee on the Elimination of Racial Discrimination Eighty-fourth session

Summary record of the 2281st meeting

Held at the Palais Wilson, Geneva, on Thursday, 13 February 2014, at 3 p.m.

Chairperson: Mr. Calí Tzay

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The meeting was called to order at 3 p.m.

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

Fourteenth to seventeenth periodic reports of Luxembourg (CERD/C/LUX/14-17; CERD/C/LUX/Q/14-17; HRI/CORE/LUX/2012)

1. *At the invitation of the Chairperson, the delegation of Luxembourg took places at the Committee table.*

2. **Mr. Hosheit** (Luxembourg) said that foreigners coming from 170 countries made up 44.5 per cent of the country's population and two thirds of its working population. To date, manifestations of racism had tended to be only occasional and marginal occurrences thanks to the country's relatively sound economic situation and its proactive integration policy, which ensured that foreigners could express their cultural identity. Nevertheless, the Government worked tirelessly to prevent expressions of racism. The 2008 Act on the reception and integration of foreigners had led to the establishment of the Luxembourg Reception and Integration Agency, whose mandate included the implementation of the national plan of action to achieve integration and combat discrimination 2010–2014, in close cooperation with the interministerial committee for integration. The Agency also managed the welcome and integration contracts, which were offered as an option to all foreign nationals lawfully residing in the country. The contracts, which constituted a reciprocal commitment between the State and foreigners, included language courses in Luxemburgish, French or German, civics classes and participation in an orientation day. Instituted in 2011, the contracts had been extremely popular, as demonstrated by the fact that nearly 1,000 had been signed each year, mostly by women. A bill, currently under consideration, would reduce from seven to five the number of years parties to such contracts would have to reside in the country before they could be naturalized. Significant amendments had been made to the Citizenship Act in 2008: the principle of dual and multiple nationality had been generalized; persons wishing to acquire or recover Luxembourg nationality were no longer required to renounce their previous nationality, and the voluntary acquisition of a foreign nationality no longer entailed the loss of Luxembourg nationality. The naturalization process had also been simplified, benefiting an estimated 25,000 to 30,000 people.

3. As a rule, all residents and foreign nationals lawfully residing in Luxembourg were entitled to the same rights as nationals in terms of employment and social services, provided that they met all requirements regarding residence and work permits. Persons who applied for international protection were granted access to the labour market nine months after the submission of their application. Applicants were systematically sent a brochure, published in 11 languages, explaining the process in detail. They were also granted a six-month temporary authorization to work. The Labour Code prohibited all forms of direct and indirect discrimination on the grounds of affiliation or non-affiliation, whether proven or suspected, to a particular race or ethnicity. It also shifted the burden of proof away from the victim in the event of a breach in the principle of equal treatment. Additional special leave — or language leave — had been introduced to give employees of all nationalities the chance to learn Luxemburgish in order to facilitate their entry into the labour market.

4. Three institutions were responsible for defending fundamental rights. Firstly, the Centre for Equal Treatment was responsible for promoting, studying and monitoring equal treatment. It had five members, including a chairperson, who were appointed for five years by the head of State, upon nomination by the Chamber of Deputies, and who reported annually to the Government and the Chamber. Secondly, the Advisory Commission on

Human Rights gave the Government advice and opinions on all matters related to human rights. Thirdly, the Ombudsman dealt only with cases involving relations between government entities and the public. It had never received any case of racial discrimination. In 2009, the Government, according to its policy of actively combating the dangers associated with the use of new media, had set up an office for the anonymous reporting of illegal Internet material, called BEE SECURE Stopline. Since its launch, the office had received 439 reports of potentially racist or discriminatory online material, of which 301 had been deemed to constitute an offence and had been redirected to the relevant police department.

5. **Mr. Avtonomov** (Country Rapporteur) said that the periodic report of Luxembourg had been submitted five years late, which broke the continuity of the dialogue between the State party and the Committee. He welcomed the adoption of the new laws on racial discrimination, but pointed out that the amended version of article 457 of the Criminal Code was not fully in line with article 1 of the Convention, as it mainly concerned negationist behaviour. Luxembourg should adopt a general law prohibiting all forms of racial discrimination. He noted with interest that the Government was considering submitting a bill on the ratification of the Convention on the Reduction of Statelessness of 1961 and wished to know whether it also planned to ratify International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

6. While welcoming the adoption of the Act on the reception and integration of foreigners, he requested more specific details of the legal character of the welcome and integration contract offered to foreigners. Noting that the Centre for Equal Treatment was responsible for dealing with complaints from persons who believed they had suffered racial discrimination under article 14 of the Convention, he was surprised that the report did not contain any data about the complaints brought to the Centre or their outcome. There was also a lack of data on the ethnic composition of the population, although foreigners made up 44 per cent of the total. He invited the delegation to provide statistics on unemployment, school enrolment and mortality rates among the Roma and Yenish, a semi-nomadic ethnic group present in all the neighbouring countries. Regarding the implementation of article 4 of the Convention, the State party should study closely the Committee's general recommendation No. 15 concerning violence based on ethnicity, according to which all the provisions of the article were mandatory, including the obligation to declare unlawful and ban all organizations that incited racial discrimination and to declare the financing of racist activities an offence punishable by law. Without a legal basis, acts of that nature could not be punished by the courts.

7. **Mr. Kemal** asked what resources were available to the Luxembourg Reception and Integration Agency for combating prejudice and discriminatory attitudes, especially in the media. Noting that the State party apparently still did not consider it necessary to introduce a law automatically banning all organizations that incited discrimination on the ground that the matter was "covered in existing texts", he requested further information about existing legislation in that respect. He wished to know whether the supply of social housing was sufficient to meet demand or whether there was a waiting list, and whether the fact that foreigners occupied 65 per cent of social rental housing caused some resentment among Luxembourg families. He invited the delegation to explain in detail the factors that prevented the State party from ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Lastly, he wished to know whether there had ever been incidents of hate speech in the country and whether so-called visible minorities were ever the targets of racial profiling.

8. **Mr. Diaconu** asked whether, given that international instruments superseded national laws, the Convention had ever been invoked before the courts, whether the special standing committee to combat racial discrimination had been re-established and, if not, which body had taken over its functions. He regretted that the State party had not made racial motivation an aggravating circumstance and said that Luxembourg law, which penalized breaches of public order by corporations, failed to cover the principles enshrined in article 4 of the Convention.

9. **Mr. Bossuyt** asked whether the new coalition in power in Luxembourg had already announced the launch of specific initiatives to protect the rights enshrined in the Convention. Noting that the State party had introduced the notion of “safe countries of origin” and “third countries” in asylum proceedings, he wished to know which countries had been placed in the latter category, whether nationals of those countries had the same opportunity to appeal the rejection of their request as nationals of safe countries, and to which countries they were transferred, given that Luxembourg applied the Dublin II Regulation.

10. **Mr. Murillo Martínez** asked whether the State party intended to calculate the per capita income of cross-border workers and compare it to that of Luxembourg workers. Given that the Social Security Code imposed administrative fines on businesses that employed foreigners in an irregular situation, he asked whether the State party kept statistics that could shed light on the extent of illegal work in Luxembourg. He wished to know how the State party interpreted the drop in the number of convictions for racial discrimination described in paragraph 117 of the report and what the figures were for 2012 onwards. Lastly, he invited the delegation to describe the initiatives the Government was planning as part of the International Decade for People of African Descent.

11. **Ms. Crickley** asked whether the State party intended to establish an independent national human rights institution in line with the Paris Principles. She wished to know whether, pursuant to the multi-year national plan of action to achieve integration and combat discrimination, the State party had taken any measures in favour of the Roma from Serbia and Croatia, who, being more recent arrivals, experienced greater difficulties.

12. **Mr. Lindgren Alves** asked whether the Serbo-Croatian intercultural mediators mentioned in paragraph 36 of the report, in addition to facilitating the integration of Roma children in school, were also taught them German, French and Luxemburgish, the country’s three official languages, to help them integrate into society and find employment.

13. **Ms. Dah**, referring to citing information in the core document according to which slightly under half of immigrants of African origin were from Cabo Verde (table 1, p. 33), asked what the nationality was of the other African immigrants, specifically whether some were from Burkina Faso. She wished to know whether the State party had granted asylum to Syrians. Noting that the Centre for Equal Treatment would no longer be authorized to receive and process complaints of racial discrimination, she wished to know to which body that power had been transferred. Lastly, she asked whether female immigrants were discriminated against in terms of access to employment and wages.

14. **Mr. Vázquez** asked whether the media had been given guidelines or instructions on best practices in a bid to stop them from mentioning the national or ethnic origin or language of persons arrested by police, showing Muslims in a bad light and spreading negative comments about them. He requested information about steps taken to improve the public’s attitude towards the Roma since, according to a survey, part of the population appeared to be hostile toward them. Given that, once their application was submitted, asylum seekers had to wait nine months before being allowed to work legally, he wished to know whether that period might ever be shortened. It would be useful to know whether the Government planned to reopen the holding centre for foreigners in an irregular situation,

which had been shut down in 2011. Could the delegation explain why racial motivation was considered an aggravating circumstance ordinary offences only in extraordinary cases, such as the desecration of graves? Lastly, he invited the delegation to comment on the concerns expressed by the European Commission against Racism and Intolerance (ECRI) in its report, which stated that the Centre for Equal Treatment did not have standing before the court, that the authorities from which the Centre requested information following a complaint were not obliged to reply and that its budget had been cut, which detracted from its ability to carry out its duties effectively.

15. **Mr. Kut** asked whether the State party had assessed the effectiveness of the multi-year national plan of action to achieve integration and combat discrimination 2010–2014. If so, details of the findings would be useful. He wished to know whether the State party might consider amending its legislation to make racial motivation an aggravating circumstance of offences. He requested statistics on the number of naturalization requests made since 2009, disaggregated by country of origin, and in particular on how many had been approved and denied.

16. **Mr. Yeung Sik Yuen**, noting that command of Luxemburgish was one of the main conditions for acquiring Luxembourg nationality, wondered whether that requirement might not be excessive and might not constitute a barrier to naturalization.

17. **Mr. Hosheit** (Luxembourg) said that Luxembourg was proud of the model of coexistence it had built. Half its population was foreign and a large proportion of Luxembourg nationals were of foreign origin. The country had seen successive waves of immigration, mainly from neighbouring countries, Italy and, more recently, Portugal and Cabo Verde. The Cabo Verdean community was very well integrated in the country and made significant economic and cultural contributions. Coexistence between foreigners and nationals was harmonious and peaceful and racist incidents were very rare, which explained the very low number of proceedings for racial discrimination listed in the report. One of the measures that had helped the integration of foreigners was the adoption of dual nationality provisions, as a result of which some 30,000 people had applied for naturalization in the knowledge that they could retain the nationality of their country of origin. The delegation understood the Committee's concerns about the difficulty for foreigners to learn Luxemburgish. Since foreigners spoke many different languages, the authorities had considered that it would be best to concentrate on learning a language of communication that would facilitate coexistence between foreigners and nationals and, thus, their integration in the country. The authorities did not expect foreigners to be perfectly proficient in Luxemburgish, only that they should reach a level enabling them to communicate. Yénish had never been associated with an ethnic group, but rather with certain social and occupational categories, such as cutlers. It was a dialect of the Weimerskirch neighbourhood, which some linguists believed was derived from Yiddish.

18. Membership of ethnic groups was not entered in censuses. The authorities aimed to manage migratory flows pragmatically and did not wish to go into details of ethnicity, which, incidentally, was often very difficult to establish. Luxembourg had not yet been faced with the problem of negationist attitudes or the rise of neo-Nazi movements. There were no restrictions on freedom of movement or on the right to choose a place of residence. Measures had been taken at the interministerial level to definitively resolve the chronically late submission of reports to treaty bodies. There were 13 nationals of Burkina Faso in Luxembourg and the Government maintained a special partnership with that country. In response to questions posed by Ms. Crickley, he said that the Advisory Commission on Human Rights was absolutely independent and had been set up in keeping with the Paris Principles. Luxembourg had been host to a number of successive waves of refugees and was expecting the imminent arrival of a group of Syrians. Freedom of the press was paramount, and the Government had no intention of issuing instructions to the media

regarding the material they published, especially since they had their own code of conduct that covered the issues raised by the Committee. Lastly, the effectiveness of the multi-year national plan of action to achieve integration and combat discrimination 2010–2014 had not yet been assessed because it was still being implemented, but the Economic and Social Council would attend to the matter in due course.

The meeting rose at 5.55 p.m.