

Concluding observations on the combined twentieth to twenty-third periodic reports of Belarus *

1. The Committee considered the combined twentieth to twenty-third periodic reports of Belarus (CERD/C/BLR/20-23), submitted in one document, at its 2602nd and 2603rd meetings (CERD/C/SR.2602 and 2603), held on 30 November and 1 December 2017. At its 2608th meeting (CERD/C/SR.2608), held on 5 December 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twentieth to twenty-third periodic reports of the State party.

3. The Committee expresses its appreciation for the open and constructive dialogue with the State party's delegation. The Committee wishes to thank the delegation for the detailed information provided during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the State party's amendments to its policies, programmes and administrative measures to further the protection of human rights and implementation of the Convention, including:

- (a) Amendment of the Trafficking in Persons Act in December 2014 to expand the definition of trafficking in persons;
- (b) Amendment of the International Labour Migration Act in January 2016 to introduce protection for immigrant domestic workers;
- (c) The Law on Granting Refugee Status, Complementary Protection, Asylum and Temporary Protection to Foreign Citizens and Stateless Persons in the Republic of Belarus (the 2016 Law on Refugees), which entered into force in July 2017, with a view to providing more socioeconomic rights and more favourable protection to refugees.

5. The Committee also welcomes the ratification of, or accession to, the following instruments by the State party:

- (a) Convention on the Rights of Persons with Disabilities and its Optional Protocol, in November 2016;
- (b) Council of Europe Convention on Action against Trafficking in Human Beings, in November 2013.

C. Concerns and recommendations

Statistics

6. While appreciating that some statistics were provided by the State party concerning the ethnic composition of its population, the Committee regrets that they do not provide comprehensive information about the enjoyment of economic and social rights by ethnic minority groups, as the State party does not collect comprehensive ethnic data on its population (arts. 1 and 5.)

Statistics

7. Recalling its revised reporting guidelines (see CERD/C/2007/1, paras. 10 and 12), the Committee recommends that the State party enhance its data-collection activities, using various indicators of ethnic diversity on the basis of anonymity and self-identification of persons and groups, to provide an adequate empirical basis for policies to enhance the equal enjoyment by all of the rights enshrined in the Convention and facilitate the monitoring thereof.

Domestic application of the Convention

8. The Committee notes the statements by the delegation that despite the practice of the judiciary of refraining from directly invoking international treaties, the Convention is directly applicable in the domestic legal system. However, observing that references to the Convention in judicial decisions may indicate that judges, prosecutors and lawyers have knowledge of its provisions, the Committee remains concerned by the absence of information on judicial cases in which the Convention has been expressly invoked and applied (arts. 1 and 2.)

Domestic application of the Convention

9. The Committee reiterates its request (see CERD/C/BLR/CO/18-19, para. 12 (c)) that the State party provide information on the number and type of cases in which judges have directly invoked the Convention.

Definition and criminalization of racial discrimination

10. Notwithstanding the ban on employment-related racial discrimination contained in article 14 of the Labour Code, the Committee remains concerned by the absence of comprehensive legal provisions defining and prohibiting racial discrimination in accordance with article 1 of the Convention (see CERD/C/BLR/CO/18-19, para. 8). Noting the statements by the delegation that the State party is examining the necessity of introducing such provisions, the Committee recalls that they are crucial for enabling the prosecution of acts of racial discrimination and the pursuit of redress for violations (arts. 1, 2 and 5).

Definition and criminalization of racial discrimination

11. The Committee urges the State party to enact specific legislation containing a definition of racial discrimination in line with article 1 of the Convention and making racial discrimination an offence punishable by law. It also recommends that direct and indirect racial discrimination in all fields of public life, including those outlined in article 5 of the Convention, be prohibited in the State party's administrative and civil laws.

National human rights institution

12. While noting the statements by the delegation that the State party's existing bodies currently obviate the need for a national human rights institution, the Committee emphasizes the key role played by such institutions in supporting States parties in their efforts to implement the Convention (art. 2).

National human rights institution

13. Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee reiterates its recommendation (see CERD/C/BLR/CO/18-19, para. 15) that the State party expedite efforts to establish a single fully independent human rights institution with a broad mandate for the promotion and protection of human rights, including receiving and processing complaints from individuals, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Acts of racial discrimination

14. In the light of reports indicating a lack of public awareness of mechanisms for redress for acts of racial discrimination, the Committee is concerned by the lack of comprehensive statistics on the number of complaints related to racial discrimination and on the outcome of their review (arts. 2, 5 and 6).

Acts of racial discrimination

15. The Committee recommends that the State party take measures to ensure that acts of racial discrimination are investigated, prosecuted and sanctioned, and that victims are provided with appropriate remedies. The Committee also recommends that information be provided to the public about the complaint mechanisms that are available. The Committee requests that the State party provide in its next periodic report information and statistics on those indicators, disaggregated by ethnicity.

Racist hate speech and hate crimes

16. The Committee notes with interest that the State party's national law criminalizes many acts committed on racial or ethnic grounds, that racial or ethnic hatred constitutes an aggravating circumstance for both administrative and criminal offences and that article 130, section 1, of the Criminal Code criminalizes deliberate incitement of racial or ethnic hatred. However, the Committee also notes the State party's information that during the period 2010–2015, there were no convictions for acts of violence, torture, grievous bodily injury, murder or the breach of rights or freedoms on racial or ethnic grounds, or for the organization or leadership of racist organizations. Concerned by reports of hate speech in the media, the Committee regrets the lack of progress in adopting comprehensive legislation criminalizing hate speech, in line with its general recommendation No. 35 (2013) on combating racist hate speech. Notwithstanding the statements by the delegation to the contrary, the Committee is concerned by reports that owing to a lack of training, police, prosecutors and judges often do not examine whether crimes are motivated by racial hatred. The Committee is therefore concerned by the lack of clarity surrounding the extent to which racial discrimination-related criminal legislation is applied (art. 4).

Racist hate speech and hate crimes

17. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 35, the Committee reiterates its recommendation that the State party adopt comprehensive legislation specifically criminalizing racist hate speech, in accordance with article 4 of the Convention, and ensure that racist or ethnic hatred is consistently taken into account as an aggravating circumstance when it serves as the motivation for an offence (see CERD/C/BLR/CO/18-19, para. 9). The Committee also recommends that the State party develop training programmes for law enforcement officers, including the police, prosecutors and the judiciary, on the proper methods for identifying, registering, investigating and prosecuting racist incidents, hate crimes and cases of hate speech.

Racist hate speech and hate crimes

18. The Committee requests that the State party collect and provide in its next periodic report statistics, disaggregated by the ethnicity of the victim, concerning investigations, prosecutions, convictions, sanctions and remedies for acts of racist hate speech, incitement to racial hatred and other racist hate crimes.

Trafficking in persons

19. The Committee welcomes the State party's initiative at the domestic and international levels to combat trafficking in persons, including recent efforts to expand the scope of domestic anti-trafficking legislation. It also notes the statistics the delegation provided concerning the identification in 2016 of many perpetrators and victims of trafficking. However, in the light of reports of a significant

incidence of human trafficking in the State party, the Committee is seriously concerned by reports that between 2013 and 2016, there were no convictions for trafficking in persons under article 181 of the Criminal Code (arts. 2 and 6).

Trafficking in persons

20. The Committee recommends that the State party intensify its efforts to punish trafficking in persons and provide in its next periodic report data, disaggregated by nationality or ethnicity, on the number of acts of trafficking investigated, prosecuted and sanctioned, and on the remedies provided to victims.

Independence of judges

21. The Committee notes the statements by the delegation concerning recent legal amendments aimed at improving the functioning of the judiciary. Nevertheless, recalling that the independence of the judiciary is essential to ensuring effective protection and remedies against any acts of racial discrimination, the Committee is concerned that the President has the power to appoint, dismiss and determine the salary of judges and that judges are appointed for a term of years renewable by the President (arts. 2, 5 and 6).

Independence of judges

22. Referring to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party continue taking measures to guarantee the independence of the judiciary from political control and interference, so as to ensure the proper administration of justice, in particular in cases related to racial discrimination.

Situation of Roma

23. While appreciating the statements made by the delegation concerning special measures providing for assistance to Roma, the Committee is concerned by reports that Roma face racial discrimination and profiling by the State party's law enforcement and criminal justice authorities and restrictions on their freedom of movement within the State party's territory through measures including compulsory fingerprinting and arbitrary detention. The Committee is also concerned by reports that the so-called "social parasitism" tax, established in presidential decree No. 3 (2015) and requiring individuals who work fewer than 183 days per year to pay approximately \$250 per year as compensation for lost tax revenues, disproportionately affects Roma. The Committee notes that the decree was suspended in 2017 and that a revised draft is being reviewed. The Committee is further concerned by reports that in spite of legal anti-discrimination protections, Roma face widespread discrimination in both public and private sector employment, and that despite the commendably high literacy rate in the State party, a large percentage of Roma children do not attend school. While noting that the State party does not collect data on the ethnic composition of its prison population, the Committee is also concerned by reports that Roma are disproportionately represented among prisoners (arts. 2, 5, 6, 7).

Situation of Roma

24. Referring to its general recommendations No. 32 (2009) on the meaning and scope of special measures in the Convention and No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

- (a) Take measures to end racial profiling by law enforcement authorities, including through targeted training programmes, and undertake prompt, thorough and impartial investigations into all allegations of racial profiling, holding those responsible accountable and providing effective remedies, including compensation;**
- (b) Refrain from imposing taxes disproportionately affecting disadvantaged ethnic minorities, including a tax on individuals on the basis of unemployment or underemployment, such as the tax established in presidential decree No. 3 (2015);**
- (c) Take all necessary measures to monitor, prevent, investigate and sanction acts of discrimination against Roma in the area of employment;**
- (d) Ensure that all children, including Roma, enjoy their right to inclusive and quality education;**
- (e) Collect data on the prison population, disaggregated by ethnicity and offence;**
- (f) Provide in its next report to the Committee information on the aforementioned measures taken and their results.**

Counter-terrorism measures

25. The Committee is concerned by the lack of clarity concerning whether the State party's legislation on terrorism and extremism reflects the intersectionality between terrorism and racism (arts. 5 and 6.)

Counter-terrorism measures

26. The Committee recommends that the State party ensure that its laws on terrorism and extremism are not applied in an indiscriminate manner that could constitute a violation of the Convention. The Committee further requests the State party to provide in its next periodic report additional information on those laws, in order to establish whether the Criminal Code provides for the intersectionality between terrorism and racism.

Migrants, refugees and asylum seekers

27. The Committee notes the State party's information that as of 1 January 2016, it had granted refugee status to 926 foreign nationals from 19 States and subsidiary protection to 1,231 foreign nationals. However, the Committee is concerned by the absence of specific information, disaggregated by year and nationality or ethnicity, on the number of asylum applications filed and granted (arts. 2, 5 and 6).

Migrants, refugees and asylum seekers

28. The Committee recommends that the State party collect on an ongoing basis statistics, disaggregated by nationality, indicating the number of asylum applications and appeals filed and granted. The Committee requests the State party to provide such statistics in its next periodic report. The State party is also encouraged to accede to the Convention relating to the Status of Stateless persons and the Convention on the Reduction of Statelessness.

Human rights training

29. While welcoming the training conducted by the State party on the prevention of human trafficking, the Committee is concerned by the absence of information concerning training and education designed to combat prejudice and racial discrimination and promote tolerance and understanding (art. 7).

Human rights training

30. In line with its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party conduct specialized training programmes for law enforcement officers, judges, lawyers and State officials on the prevention of racial discrimination and the rights enshrined in the Convention. It requests the State party to provide detailed information in its next periodic report on such training programmes and the impact of such training on the situation of ethnic minorities.

D. Other recommendations

Ratification of other instruments

31. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular those with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee also recommends that the State party ratify the International Labour Organization Domestic Workers Convention 2011 (No. 189).

Follow-up to the Durban Declaration and Programme of Action

32. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

34. The Committee recommends that the State party consult and engage in dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.

Declaration under article 14 of the Convention

35. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

Amendment to article 8 of the Convention

36. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on

15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Follow-up to the present concluding observations

37. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 9 and 24 (b) above.

Paragraphs of particular importance

38. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 17, 22, 28 and 30 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

39. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

40. The Committee recommends that the State party submit its combined twenty-fourth and twenty-fifth periodic reports, as a single document, by 8 May 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.