



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twentieth and twenty-first periodic reports of France *

1. The Committee on the Elimination of Racial Discrimination considered the combined twentieth and twenty-first periodic reports of France (CERD/C/FRA/20-21) at its 2327th and 2328th meetings (CERD/C/SR.2327 and 2328), held on 28 and 29 April 2015. At its 2343rd and 2344th meetings, held on 8 and 11 May 2015, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's combined twentieth and twenty-first periodic reports. The Committee takes note of the constructive dialogue held with the delegation of the State party concerning the implementation of the Convention and wishes to thank the delegation for the information provided during the consideration of the report and for the supplementary information provided in writing following the dialogue.

B. Positive aspects

3. The Committee takes note of the advances made on the legislative and institutional fronts by the State party since the consideration of its last report as part of its effort to combat racial discrimination, including:

- (a) The revocation of the circular of 31 May 2011 concerning labour immigration controls;
- (b) The appointment, by means of a decree issued on 16 February 2012, of an interministerial delegate to assist in the fight against racism and anti-Semitism under the authority of the Prime Minister;
- (c) The adoption, on 17 April 2015, of a national plan for 2015–2017 to combat racism and anti-Semitism;
- (d) The adoption of a law on 7 July 2014 on organization and planning in respect of development policy and international solidarity.

C. Concerns and recommendations

Application of the Convention at the local level

4. The Committee notes that, under the Constitution (art. 72) and the Local Government Code, local governments have certain powers that relate to the protection of Convention rights. The Committee is concerned by the fact that some local governments do not always fulfil the State party's obligations to foreign nationals, migrants and unaccompanied minors and do not always receive the resources and training that they would need in order to meet the obligations of the State party in the fight against racial discrimination (art. 2).

The Committee recommends that the State party take the necessary steps to ensure that the devolution of powers to local governments does not interfere with vulnerable persons' and groups' enjoyment of their rights under the Convention. It also recommends that the State party provide local governments with the necessary training and sufficient resources to enable them to discharge their responsibilities in respect of the State party's obligations under the Convention and that it ensure that there is appropriate oversight in this area.

Demographic composition of the population

5. The Committee notes once again that the State party's report does not contain recent, reliable data on economic and social indicators that could be used, in particular, to compare the status of indigenous peoples, minorities and immigrants with that of the general population as a basis for arriving at a more accurate assessment of the extent of their enjoyment of their economic, social and cultural rights in the State party.

While understanding the concerns expressed by France to justify its position, the Committee invites the State party to consider refining the tools that it uses to compile and publish data, disaggregated by territorial collectivity, on the demographic composition of its population and to adopt suitable methods for doing so. In the light of both its general recommendation No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention and paragraphs 10 to 12 of its reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party furnish it with all available indicators on the composition of its population, all other information provided by

socioeconomic studies and data from social surveys on the mother tongues, commonly spoken languages and places of birth or origin of the members of its population. This information should be based on self-identification and should have been provided anonymously and voluntarily, and will enable the Committee to assess the status of the population in terms of the equitable enjoyment and exercise of human rights and fundamental freedoms in the light of the State party's policy in support of cultural diversity.

National plan to combat racism and anti-Semitism

6. While welcoming the adoption of a new national plan to combat racism and anti-Semitism for the period 2015–2017, the Committee finds it regrettable that information is lacking on the evaluation and results of the implementation of the national action plan for 2012–2014 (art. 2).

The Committee encourages the State party to undertake an evaluation of the 2012–2014 national plan to combat racism and anti-Semitism so that it can identify positive aspects and difficulties encountered in the course of its execution that can inform the implementation of the new plan. Mechanisms for the evaluation of the new plan should also be put in place.

Racial hate crimes

7. While taking note of the fact that offences motivated by reasons relating to a person's race, ethnic identity or colour are defined as aggravating circumstances in the criminal laws of the State party, the Committee is concerned by the fact that incitement to racial hatred does not constitute a specific offence in line with article 4 of the Convention. The Committee also notes that the State party maintains its reservation to article 4 of the Convention (art. 4).

Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 15 (1993) on article 4 of the Convention, which state that the provisions of article 4 are imperative and preventive in nature, the Committee recommends that the State party make the dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination or violence a specific offence. Bearing in mind also its general recommendation No. 35 (2013) on combating racist hate speech, the Committee invites the State party to consider withdrawing its reservation to article 4 of the Convention.

Racist hate speech, including such speech over the Internet, and incitement to racial hatred

8. The Committee is concerned by the increase in racist hate speech and xenophobic discourse in some political circles and media, which contributes to the trivialization of xenophobia and racism directed at foreigners and members of minorities within the French population. The Committee is also concerned by the persistence of racism on the Internet, despite the preventive and punitive measures, such as the introduction of the platform for the harmonization, analysis, crosschecking and forwarding to the competent authorities of reports (PHAROS), taken by the State party (art. 4).

Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 15 (1993) on article 4 of the Convention, and in the light of its general recommendations No. 30 (2004) on discrimination against non-citizens and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

- (a) Strongly condemn and distance itself from the racist hate speech and xenophobic, anti-Semitic and Islamophobic discourse emanating from certain political circles or media;**
- (b) Ensure that all instances of racist or xenophobic discourse are investigated and that the persons responsible are prosecuted, convicted and punished appropriately;**
- (c) Reinforce the steps being taken to inculcate tolerance and understanding among the different population groups residing in its territory.**

The Committee also recommends that the State party strengthen measures, particularly within the framework of the PHAROS platform, and increase the resources devoted to reversing the proliferation of racist acts and expressions on the Internet. It also recommends that the State party continue its awareness-raising campaigns, take more determined action in this regard, and cooperate more closely with foreign companies and service providers.

Discrimination against Roma

9. The Committee is concerned by reports regarding:

- (a) The growing stigmatization of Roma occasioned by the use of racist hate speech by elected officials and others, the exclusion of Roma and an increase in the negative stereotyping of this group;**
- (b) Repeated breaches of their right to housing, many of which take the form of forced evacuations of Roma from their camps without, in many cases, any alternative type of lodging being offered;**
- (c) Repeated acts of violence by private individuals and the excessive use of force by police in the course of forced evacuations of Roma from their camps;**
- (d) Breaches of Roma children's right to education as a result, among other factors, of the evacuation of their camps and some municipalities' refusal to enrol them in school;**

(e)The existence of extremely substandard health conditions and of a number of factors that hinder their access to health care;

(f)The existence of factors that hinder their access to employment and to public services (arts. 2 and 5).

Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee encourages the State party to continue its current efforts and to take the necessary steps, including the adoption of special measures, to prevent and combat racial discrimination against the Roma in all its forms. The Committee also recommends that the State party:

(a)Carry out public awareness-raising campaigns to promote tolerance and understanding of the Roma population;

(b)Become more vigilant in enforcing its laws on any and all forms of hate speech directed at the Roma in political circles and elsewhere;

(c)Take the necessary steps, as a matter of urgency, to protect the Roma, particularly Roma women, from all forms of violence and any attempt to violate their right to physical integrity;

(d)Ensure the full and effective application of the provisions set forth in the circular of 26 August 2012 concerning advance notice of evacuations and the provision of support in their connection, as well as the provision, on a systematic basis, of alternative lodging to Roma expelled from their camps;

(e)Ensure the full and effective application of the three circulars of 2 October 2012 on the provision of schooling to Roma and Traveller children;

(f)Facilitate access for Roma to health care and social services;

(g)Develop training and learning opportunities for Roma with a view to facilitating their entry into the labour market;

(h)Ensure the effective implementation of the Strategy for Roma Inclusion and evaluate its degree of success.

Travellers

10.The Committee notes the various steps that have been taken to improve the situation of Travellers, including the Constitutional Council's abrogation of some of the provisions of Act No. 69-3 of 3 January 1969 regarding itinerant activities and the regulations applicable to persons moving about in France who have no domicile or fixed abode. However, the Committee remains concerned by:

(a) the fact that Travellers are still required to have a permit (*livret de circulation*); (b) the lack of sufficient encampment sites; (c) the insufficient accessibility of existing encampment sites and the incomplete application of the Act of 5 July 2000 on the reception and housing of Travellers (known as the Besson Act); (d) the low school enrolment rate of Traveller children and the difficulties that they encounter in that regard (art. 5).

The Committee recommends that the State party:

(a)Repeal Act No. 69-3 of 1969 as soon as possible and do away with in-country travel permits;

(b)Improve housing conditions for Travellers with encampment areas and family sites and ensure that the Act of 5 July 2000 on the reception and housing of Travellers is fully and effectively applied;

(c)Redouble its efforts to ensure that Traveller children can effectively exercise their right to attend school.

Minorities, indigenous peoples and persons of African descent in the overseas collectivities

11.The Committee remains concerned by the failure to fully recognize the existence of indigenous peoples in the overseas territorial collectivities. It fears that this may prevent the State party from adopting the most appropriate, targeted measures to respond to the specific needs and concerns of indigenous peoples and persons of African descent, among others, particularly in regard to their enjoyment of economic, social and cultural rights on an equal footing with the rest of the population (arts. 2 and 5).

The Committee recommends that the State party consider revisiting its position on the non-recognition of indigenous peoples in the overseas collectivities. It also recommends that the State party apply more targeted policies that are better suited to the needs and specific situations of these population groups, notably indigenous peoples and persons of African descent, in order to ensure that the different segments of its population are treated equally, particularly with respect to the enjoyment of economic, social and cultural rights.

Indigenous peoples of French Guiana

12.The Committee is concerned by: (a) the fact that indigenous peoples' collective land rights are not recognized and that the existing legal regime governing the use of these communities' ancestral lands — lands that they have possessed and used since time immemorial — does not permit them to follow their traditional lifestyle; (b) the many difficulties that members of these groups encounter in seeking to gain access to an education, in large part because schools are not located nearby; (c) the fact that these population groups do not fully enjoy their housing rights and are impeded from exercising their right to freedom of movement; (d) the difficulties that these groups have in gaining access to public services, especially in the case of the civil registry and justice system; and (e) the negative impact that the activity of panning for gold has on their health and on the environment. The Committee also takes note with concern of reports indicating that indigenous peoples are often not consulted about mining and other projects being conducted in

their territories (art. 5).

In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:

- (a) Consider recognizing indigenous peoples' collective rights, in particular, to the ancestral lands that these communities have possessed and used since time immemorial and to the resources of which they have traditionally made use;**
- (b) Redouble its efforts to ensure that these peoples enjoy the same treatment as the rest of the population in regard to access to education in their own languages;**
- (c) Facilitate and guarantee the freedom of movement of these population groups and remove the obstacles that impede their access to housing; to public services, particularly those provided by the civil registry and the justice system; and to health care;**
- (d) Find lasting and suitable solutions, in some cases in conjunction with neighbouring countries, that will remedy the impacts which panning for gold has on these population groups' health and on the environment;**
- (e) Consult and work in cooperation with indigenous peoples before approving any project that could have an impact on their use of their lands or territories and other resources.**

Indigenous peoples of New Caledonia

13. While taking note of the explanations provided by the State party's delegation, the Committee remains concerned by reports indicating that: (a) the land issues of concern to the Kanaks have not been entirely settled; (b) the Kanaks are underrepresented in public administration; (c) disparities in terms of the enjoyment of economic, social and cultural rights persist; (d) access to instruction in the local languages of all children and to instruction about the Kanak culture is limited; (e) voter registration procedures are discriminatory and the right to vote is subject to unjustified restrictions to the detriment of the Kanaks; (f) access to fishing grounds and to the sea is impeded (art. 5).

In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:

- (a) Pursue its efforts to prepare the population of New Caledonia, including the Kanaks, to arrive at a decision on the issue of their self-determination;**
- (b) Put an end to voter registration practices that discriminate against the Kanaks and lift all unjustified restrictions on the right to vote;**
- (c) Find definitive solutions for the remaining land issues in New Caledonia, including the issue of how to guarantee access to fishing grounds and to the sea;**
- (d) Redouble its efforts to provide equality of treatment in terms of employment, including employment in the public administration sector, housing, health care and the Kanak culture;**
- (e) Redouble its efforts to ensure that Kanak children have access to education, including instruction in their local languages, and increase the number of teachers.**

The situation in Mayotte

14. The Committee is concerned by the fact that the discontinuation of the system of local civil status in Mayotte may have deprived some Mahorais of their rights to health, social housing and education and may have exacerbated obstacles to the exercise of freedom of movement (art. 5).

The Committee recommends that, in view of the new status of Mayotte, the State party increase its efforts to ensure that Mahorais fully enjoy their economic, social and cultural rights on an equal footing with the rest of the State party's population and that it remove the obstacles that hinder their freedom of movement.

The situation of population groups, particularly persons of foreign origin and non-citizens, residing in outlying urban areas

15. The Committee is concerned by the fact that the concentration of some groups of people of foreign origin and migrants in certain areas leads to the formation of ghettos and may give rise to racial segregation within the meaning of article 3 of the Convention. It is particularly concerned by the fact that these population groups continue to face discrimination in terms of access to employment, housing, culture and health care and that they are confronted with greater difficulties in the area of education (art. 5).

In the light of its general recommendations No. 19 (1995) on article 3 of the Convention and No. 30 (2004) on discrimination against non-citizens, the Committee urges the State party to proceed with and strengthen its application of policies and measures that will improve living conditions in the outlying areas of major cities. It recommends that the State party monitor the situation of residents of these areas on an ongoing basis, adopt targeted public policies and redouble its efforts to take decisive action to combat all forms of discrimination encountered by such persons in the areas of employment, housing, health care and education.

Asylum seekers and refugees, including unaccompanied minors

16. The Committee is concerned about the flaws and shortcomings of the country's arrangements for the reception of asylum seekers, particularly in the overseas collectivities, and about the substandard living conditions of migrants in the Calais area. The Committee is also concerned by the fact that there is no suspensive effect when appeals are lodged against an expulsion order in some overseas collectivities or when appeals are filed against first instance decisions under the priority asylum procedure. The Committee also takes note with concern that some unaccompanied minors who arrive in the territory of the State party can be sent back (arts. 5 and 6).

The Committee recommends that the State party consider endowing appeals against first instance decisions in first asylum applications with suspensive effect throughout its territory, including the overseas collectivities. It also recommends that the State party improve the reception conditions for asylum seekers and migrants. The Committee further recommends that the State party devote greater attention to the reception of unaccompanied minors and the examination of their situation while avoiding their removal from its territory.

Human rights and terrorism

17. The Committee notes that the State party has adopted legislative and judicial measures and introduced policies to combat terrorism. The Committee fears, however, that the application of these measures may entail ethnic or racial profiling directed at members of certain minority groups and that it may undermine efforts to combat racist hate speech and incitement to hatred and racial discrimination (arts. 2, 5 and 6).

The Committee recommends that the State party establish sufficient guarantees to ensure that the practical application of anti-terrorism measures does not interfere with the exercise of Convention rights, particularly those relating to racial or ethnic profiling, racist hate speech and incitement to racial hatred and discrimination.

D. Other recommendations

Ratification of international human rights instruments

18. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular those whose provisions have a direct bearing on the subject of racial discrimination, such as the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Follow-up to the Durban Declaration and Programme of Action

19. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, and recognizing the efforts made by the State party in that area to date, the Committee recommends that the State party fully implement the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document of the Durban Review Conference held in Geneva in April 2009, when implementing the Convention in the domestic legal order. The Committee requests the State party to assess the extent to which the national plan to combat racism and anti-Semitism for the period 2015–2017 fits into the framework of the Durban Declaration and Programme of Action.

International Decade for People of African Descent

20. In the light of General Assembly resolution 66/237 proclaiming the International Decade for People of African Descent (2015–2024) and General Assembly resolution 69/16 on the programme of activities for the International Decade, the Committee recommends that the State party prepare and implement an appropriate programme of measures and policies. The Committee also calls on the State party to include in its next report detailed information on the actual measures taken in this context, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Dialogue with civil society

21. The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating discrimination, when preparing its next periodic report and implementing the national plan to combat racism and anti-Semitism for the period 2015–2017.

Common core document

22. The Committee invites the State party to regularly update its core document (HRI/CORE/1/Add.17/Rev.1), in accordance with the requirements of the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.6, chap. I).

Dissemination

23. The Committee recommends that the State party continue to make its periodic reports readily available to the general public as soon as they are submitted and that the Committee's concluding observations are disseminated in a timely manner in the official language of the State party. The Committee also requests that the State party continue to disseminate the Convention and the

Committee's general recommendations among all interested parties.

Follow-up to concluding observations

24. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on its follow-up to the recommendations contained in paragraphs 4, 11 and 17 above.

Paragraphs of particular importance

25. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 5, 8, 9 and 13, and requests the State party to provide detailed information in its next periodic report on concrete and appropriate measures taken to implement those recommendations effectively.

Preparation of the next periodic report

26. The Committee recommends that the State party submit its twenty-second and twenty-third periodic reports in a single document by 27 August 2017, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in these concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to respect the limits of 21,200 words for periodic reports and 42,400 words for the common core document.