



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 seventeenth to twenty-second periodic reports of Cyprus, adopted by the Committee at its eighty-third session (12-30 August 2013)

1. The Committee considered the seventeenth to twenty-second periodic reports of Cyprus (CERD/C/CYP/17-22), submitted in one document, at its 2254th and 2255th meetings (CERD/C/SR.2254 and 2255), held on 26 August 2013. At its 2262nd meeting (CERD/C/SR.2262), held on 30 August 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by the State party, although with considerable delay, of its seventeenth to twenty-second periodic reports, which, in general, are in conformity with the Committee's guidelines, as well as the supplementary information provided orally by the high-level delegation. The Committee also welcomes the resumption of dialogue with the State party and finds encouraging the frank and constructive responses provided to the questions and the comments raised.

B. Positive aspects

3. The Committee welcomes the legislative, institutional and other measures taken by the State party to combat racial discrimination since the examination of the last periodic report of the State party in 2001, in particular:

(a) The adoption of the Equal Treatment (Racial or Ethnic Origin) Law, L.59 (I)/2004, which prohibits discrimination on grounds of racial or ethnic origin in the field of employment, education, membership of professional organizations, social protection, and in the provision of goods and services, and institutes criminal offences for violations of its provisions;

(b) The adoption of the Equal Treatment in Employment and Occupation Law, L.58(I)/2004, which prohibits discrimination in employment and vocational training on grounds of racial or ethnic origin, religion and belief, inter alia, and provides for reversal of burden of proof, protection against victimization and the implementation of positive action;

(c) The adoption of law L.134(I)/2011 implementing European Union Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and

expressions of racism and xenophobia by means of criminal law, which also makes racist motives an aggravating circumstance under the State party's criminal legislation;

(d) The adoption of laws L.22(III)/2004 and L.26(III)/2004 ratifying the Convention of the Council of Europe Against Cybercrime and its Additional Protocol on criminalization of acts of a racist and xenophobic nature committed through computer systems;

(e) The establishment of the Police Office for Combating Discrimination, which addresses issues relating to discrimination, racism and xenophobia in the police;

(f) The adoption of law L.2(I)/2006 on the Exercise of the Right to Vote and be Elected by Members of the Turkish community with Habitual Residence in the Free Areas of the Republic (Temporary Provisions);

(g) The measures taken to combat trafficking, including the adoption of law L.87(I)/2007 on The Combating of Trafficking and Exploitation of Persons and the Protection of Victims and its ongoing revision, the establishment of a national referral mechanism, the abolition of special visas for artists; and the adoption in April 2013 and implementation of the 2013-2015 National Action Plan against Trafficking in Human Beings, under which a series of training courses for relevant public officers has been undertaken;

(h) The broadening of the competence and powers of the Ombudsman, through law L.42(I)/2004 on The Combating of Racial and Other Forms of Discrimination (Commissioner) Law, to combat and eliminate discrimination in the public or private sector, including by considering complaints of discrimination on grounds of race, community, language, colour, religion, political or other belief, and national or ethnic origin.

4. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 27 June 2011. The Committee also welcomes the ratification of the Optional Protocols to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 29 April 2009, to the Convention on the Elimination of All Forms of Discrimination against Women, on 26 April 2002, and to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, on 6 April 2006 and 2 July 2010, respectively.

5. The Committee also welcomes the work undertaken by the Ombudsman, including the studies on incitement to xenophobia and intolerance through public political speech, on racist behaviour towards immigrants by medical personnel in public hospitals, on the education of Roma pupils, and on the response of schools to racist incidents, inter alia.

C. Factors and difficulties impeding the implementation of the Convention

6. While the Committee notes that the State party does not exercise control over all of its territory and is thus unable to ensure full application of the Convention, it remains concerned that the current political situation hinders the efforts to protect vulnerable groups covered by the Convention in the territory of the Republic of Cyprus.

D. Concerns and recommendations

Peace process and intercommunal relations

7. The Committee is concerned that, in spite of the opening of several crossing points since 2003 and the resulting increase in contact between the Greek Cypriot and the Turkish

Cypriot communities, the protracted conflict in Cyprus and the continued division of the island maintain tension between the two communities.

The Committee encourages the State party to continue to invest every effort, with a view to seeking a comprehensive settlement of the Cyprus problem. The Committee also supports the recommendations of the Office of the United Nations High Commissioner for Human Rights with regard to addressing the underlying human rights issues and causes, including for those groups and communities whose rights are guaranteed by the Convention.

The Committee requests the State party to include in its next periodic report information on intercommunal initiatives undertaken by the State party and by civil society organizations to restore mutual confidence and improve relations between ethnic and/or religious communities as well as raise awareness through the impartial teaching of the history of Cyprus in schools and other State institutions.

Status of the Convention in the domestic legal order

8. The Committee regrets that evidence in case law shows that the Convention has not been invoked in the Cypriot courts despite the fact that, according to the Constitution of the State party, the Convention supersedes all domestic laws (art. 2).

The Committee recommends that the State party raise the awareness of judges, lawyers and law enforcement officers on international norms on racial discrimination, including the Convention, applicable at the national level.

Prohibition of racial discrimination

9. In spite of the adoption of several laws relating to racial discrimination, the Committee is concerned that the State party's legislation is fragmented, lacks coherence, and does not prohibit racial discrimination in all its forms, including in the enjoyment of all civil, cultural, economic, political and social rights. The Committee is concerned in particular at the following:

(a) While the definition of racial discrimination as per article 1 of the Convention has been reproduced in the law ratifying the Convention, prohibition of discrimination as well as penalties provided for by the Equal Treatment (Racial or Ethnic Origin) Law, L.59(I)/2004, concern only some of the grounds referred to in article 1 of the Convention;

(b) By limiting the scope of prohibition of racial discrimination to employment and certain social fields, the Equal Treatment (Racial or Ethnic Origin) Law, L.59(I)/2004, and the Equal Treatment in Employment and Occupation Law, L.58(I)/2004, do not meet the requirements of articles 1 and 5 of the Convention, which call for the prohibition and elimination of racial discrimination in the enjoyment of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life;

(c) The principle of reversal of the burden of proof is applied only in cases of racial discrimination in the spheres of employment and occupation, according to the Equal Treatment in Employment and Occupation Law, L.58(I)/2004 (arts. 1, 2, 4 and 5).

The Committee calls on the State party to fill the gap in the penal, labour and administrative laws with regard to the prohibition and punishment of acts of discrimination on the grounds of race, colour, descent, or national or ethnic origin, in the political, economic, social, cultural or any other field of public life, in accordance with the provisions of articles 1, 4 and 5 of the Convention.

Moreover, the Committee calls on the State party to address the lack of coherence and the fragmentation of legislation relating to racial discrimination by consolidating the relevant laws into a comprehensive and internally consistent legal framework which would ensure clarity as to what is prohibited, and the penalties and reparations. The Committee also encourages the State party to expand the scope of the reversal of burden of proof to all civil law cases of racial discrimination. The Committee requests the State party to include in its next periodic report extracts of relevant laws, including those enacted in pursuance of this recommendation.

Discriminatory laws and regulations

10. The Committee notes with concern that laws, regulations and policies which are discriminatory or lead to discrimination, such as the Tenant Law and those excluding migrant domestic workers from the scope of the Long-Term Residence Law, are in force in the State party (art. 2).

The Committee urges the State party to conduct a review of laws, regulations and policies, including those pertaining to migrant domestic workers, with a view to amending and nullifying those which have the effect of creating or perpetuating racial discrimination, in compliance with obligations under article 2(c) of the Convention.

Information on cases related to racial discrimination

11. The Committee notes the statement by the delegation that acts of racial discrimination are underreported. Moreover, the Committee regrets that information and statistics on cases related to racial discrimination brought before domestic courts and corresponding decisions were not included in the State party report in spite of the Committee's recommendation to that effect (A/56/18, para. 268) and the existence of a database which records criminal offences with a racist motive (arts. 5 and 6).

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 recalls that the low number of complaints may be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social censure or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee calls on the State party to ensure that the new framework to be adopted has the effect of encouraging the reporting of acts of racial discrimination and takes account of these factors.

It further recommends that the State party provide comprehensive information on this in its next periodic report, including information and statistics on cases related to racial discrimination, in particular their nature, the sanctions and the reparation provided to victims.

Verbal abuse and physical attacks motivated by right-wing extremism and neo-Nazism

12. The Committee is concerned at the rise in the incidence of racially motivated verbal abuse and physical attacks by right-wing extremists and neo-Nazi groups against persons of foreign origin, including persons of African descent, as well as against human rights defenders and Turkish Cypriots (art. 4).

The Committee urges the State to promptly investigate all allegations of racially motivated verbal abuse and physical attacks, to prosecute and, as appropriate, punish those found responsible, as well as provide reparation to victims. The Committee also urges the State party to take all necessary measures to prevent the occurrence of such acts in the future, including by declaring as illegal organizations which promote and

incite racial discrimination, in accordance with the provisions of law L.134(I)/2011 on Combating Certain Forms and Expressions of Racism and Xenophobia.

Racist hate speech

13. The Committee is concerned at the use of racist discourse by some politicians and in the media which vilifies and promotes prejudices against persons of foreign origin in the State party (arts. 4 and 5).

The Committee recommends that the State party strongly condemn the use of racist discourse by politicians and in the media. Furthermore, recalling that incitement to racial discrimination is outlawed in the State party, the Committee urges it to thoroughly investigate and, where appropriate, prosecute such acts.

Rights of minorities and freedom of religion or belief

14. Noting the information provided by the delegation that the issue of affiliation of religious groups with one of the two communities in the State party will be addressed in future revisions of the Constitution, the Committee nonetheless expresses its concern that the constitutional provisions currently deny the members of these groups of their right to self-identification and the free exercise of their political rights. The Committee is also concerned that article 2 of the 1960 Constitution recognizes only those “religious groups” which had a membership of over one thousand on the date of the coming into force of the Constitution. (art. 5).

The Committee recommends that the State party consider all possible means for guaranteeing the right to self-identification and the free exercise of political rights without distinction. Moreover, the Committee recommends that the State party define “minority” and the rights of persons belonging to minority groups in its legislation. The Committee requests the State party to provide in its next periodic report information on these provisions and on the economic and cultural contribution of minorities to the society.

15. Recalling the intersectionality between ethnicity and religion, the Committee regrets that it has not been given information on the protection of the enjoyment of the freedom of religion or belief, other than the existing constitutional provisions (art. 5).

The Committee requests the State party to provide in its next periodic report information on the protection framework and implementation of freedom of religion or belief, without discrimination on grounds of race or ethnic origin, including for minorities from religions other than the Greek Orthodox Church which may experience discrimination.

Situation of the Roma community

16. The Committee notes with concern that the Roma community continues to experience discrimination in access to education, employment and living conditions. Moreover, the Committee notes the information provided by the State party that measures taken to improve the situation of the Roma have not been as effective as they should have been. The Committee is further concerned at reports of racist attacks against Roma, as well as at their de facto segregation and information about the unwillingness of local communities to live side by side with them (arts. 2 and 5).

The Committee, recalling its general recommendation No. 27 (2000) on discrimination against Roma, recommends that the State party step up efforts to address the precarious situation of the Roma community. The Committee also calls on the State party to ensure that measures taken, including through the National Strategy for Roma Inclusion, do not perpetuate the situation of de facto segregation of the Roma

community, but rather secure their integration and address the stigmatization, marginalization and racial discrimination they experience. It requests the State party to provide information on measures taken and progress made in its next periodic report.

Asylum procedure

17. While noting the adoption of a policy of granting a six-month temporary residence and work permit to all Syrians who are holders of either a passport or an identity card, the Committee is concerned that the State party's asylum procedure may not provide effective protection for persons in need of international protection against refoulement. The Committee is also concerned at the differential treatment of asylum seekers, who are allowed to work only in certain sectors and receive some welfare benefits in the form of vouchers (art. 5).

The Committee urges the State party to strengthen legal safeguards to ensure effective protection against refoulement of persons in need of international protection, including by providing free legal aid without conditions to asylum seekers at all stages of the asylum procedure. The Committee also calls on the State party to guarantee asylum seekers equal labour rights and equal rights to welfare benefits, including by reversing the decision of disbursing welfare benefits through vouchers.

Citizenship

18. The Committee notes with concern that naturalization requests, including by persons of South-East Asian origin, whose situations meet the State party's legal requirements for naturalization eligibility have sometimes been denied (art. 5).

The Committee recommends that the State party respect the right to nationality without discrimination and ensure that no particular groups of non-citizens are discriminated against with regard to access to naturalization. The Committee requests the State party to include in its next periodic report statistical data on naturalization requests and decisions thereon disaggregated by ethnic group, sex, length of residence in the State party, and any other relevant criteria. The Committee also requests the State party to include in its next periodic report information on how nationality laws and regulations are applied to those who are in the occupied territories.

Economic, social and cultural rights of vulnerable groups

19. While taking note of the information provided by the State party on the population distribution by ethnic group, the Committee notes the lack of disaggregated data on foreign residents, who account for 19 per cent of the population. The Committee also regrets the lack of statistical data in the State party's report and common core documents on the socioeconomic situation of the various groups (art. 5).

In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party provide information on the composition of its population, disaggregated by national and ethnic origin, as well as statistical data on the socioeconomic situation of the various groups, to enable the Committee to evaluate the level of protection of their rights, including economic, social and cultural rights, under the Convention. The Committee also draws the attention of the State party to its general recommendation No. 24 (1999) on reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (article 1).

Migrants

20. The Committee is concerned at the discrimination experienced by migrants, inter alia, in accessing employment and housing, which is exacerbated by a climate of austerity measures resulting from the current economic downturn, and the increasing discriminatory attitudes and racial stereotypes relating to persons of foreign origin. (art. 5).

The Committee recommends that the State party step up efforts to protect the rights of migrants by combating racial stereotypes and discriminatory attitudes, including through awareness-raising campaigns, and by enforcing legislation against racial discrimination in all fields of public life. The Committee calls on the State party to include specific action to that effect in the 2013-2015 National Action Plan for the integration of third-country nationals legally residing in Cyprus. The Committee draws the attention of the State party to its general recommendation No. 30 (2004) on discrimination against non-citizens.

Domestic workers

21. The Committee notes the decrease in the number of complaints received by the Mechanism for Resolving Complaints of violations of domestic workers' employment contracts. Nevertheless, the Committee notes with concern that domestic workers remain vulnerable to abuse and exploitation, primarily due to the practice of linking work and residence permits to one employer as well as the exemption of their workplaces from the oversight of the inspectorate mechanism. The Committee is further concerned that the employment contracts of domestic workers, drawn up by the Ministry of Interior of the State party, put them at risk of forced labour and deprive them of equal rights to just and favourable conditions of work and trade union membership (art. 5).

The Committee urges the State party to ensure effective protection against abuse, exploitation and unequal work rights, including by:

- (a) Ensuring that the working conditions of domestic workers are monitored by the labour inspectorate;**
- (b) Allowing domestic workers to change employer during the validity of their residence/work permits;**
- (c) Amending several provisions of article 2 of the standard contract of employment of domestic workers in order to prevent forced labour, and guarantee their right to just and favourable conditions of work and the freedom of association.**

The Committee also calls on the State party to act upon the recommendations of the Ombudsman, as contained in the July 2013 report on conditions of domestic workers in Cyprus, and recommends that the State party ratify International Labour Organization (ILO) Convention No. 189 (2011) concerning decent work for domestic workers.

Education on tolerance and understanding of cultural diversity

22. The Committee expresses concern at reports of racist incidents in schools against migrant children (art. 7).

Noting the State party's response to racist incidents in schools, including the dispatch of multidisciplinary teams to provide immediate assistance to schools concerned and the provision of psychological support to vulnerable children, the Committee calls on the State party to ensure that measures are also taken with a view to creating an environment of tolerance and understanding of cultural diversity in schools as well as

in the society at large. The Committee also recommends that the State party conduct surveys on the society's perception of cultural diversity and act upon the findings.

National human rights institution

23. Noting the adoption of law L.158(I)/2011 entrusting the mandate of a national human rights institution to the Ombudsman, the Committee notes with concern that the institution is not empowered to recruit its own personnel and, according to reports, is not provided with the necessary resources for the effective exercise of its very broad mandates (art. 2).

The Committee calls on the State party to guarantee the full operational independence and financial autonomy of the Ombudsman and to ensure that it is fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). The Committee also recommends that the State party seek accreditation by the International Coordinating Committee of National Human Rights Institutions.

D. Other recommendations

Ratification of other treaties

24. 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 treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as 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

25. In light of its general recommendation no. 33 (2009) on 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 September 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, when implementing the Convention in its domestic legal order. 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.

Consultation with civil society organizations

26. 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 in combating racial discrimination, in connection with the preparation of the next periodic report and the follow-up to these concluding observations.

Dissemination

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

Follow-up to concluding observations

28. 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 the present conclusions, on its follow-up to the recommendations contained in paragraphs 13, 20 and 23 above.

Paragraphs of particular importance

29. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 12, 16 and 21, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

Preparation of the next periodic report

30. The Committee recommends that the State party submit its combined twenty-third and twenty-fourth periodic reports by 4 January 2016, taking into account the guidelines for the treaty-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document as per the harmonized guidelines on reporting (HRI/GEN.2/Rev.6, para. 19).
