



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
20 February 2013
English
Original: French

Committee on the Elimination of Racial Discrimination

Concluding observations on the fifteenth to nineteenth periodic reports of Algeria, adopted by the Committee at its eighty-second session

1. The Committee considered the combined fifteenth to nineteenth periodic reports of Algeria (CERD/C/DZA/15-19) at its 2209th and 2210th meetings (CERD/C/SR.2209 and 2210), held on 13 and 14 February 2013. At its 2225th meeting (CERD/C/SR.2225), held on 25 February 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fifteenth to nineteenth periodic reports of the State party. It notes that the report is in conformity with the Committee's reporting guidelines. However, the Committee regrets that it was submitted with a delay of nearly 10 years.

3. The Committee welcomes the open and constructive dialogue held with the State party's delegation, which included representatives of several ministries and institutions. It thanks the delegation for the oral presentation and the detailed responses provided during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the constitutional review of 22 April 2002, which resulted in the establishment of the Amazigh language as a national language.

5. The Committee notes with interest the 2001 review of the Criminal Code establishing provisions on aggravating circumstances for racially motivated offences.

6. The Committee takes note of the activities of the High Commission on Amazighness, including the publication of books in Tamazight and the awarding of grants to cultural and scientific associations to promote Amazigh culture.

7. The Committee notes with interest that article 10 of the Education Act of 23 January 2008 stipulates that the State guarantees the right to education for all, without discrimination based on sex or social or geographical origin. It commends the State party on achieving a primary education enrolment rate of 98 per cent.

8. It welcomes the amendments made to the Nationality Code in February 2006 allowing for children born abroad of an Algerian mother and a foreign father to acquire Algerian nationality.

9. The Committee notes with interest that, during the period under review, the State party ratified several international instruments, including:

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2005;

(b) The Convention on the Rights of Persons with Disabilities, in 2009;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2006;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2009;

(e) The United Nations Convention against Transnational Organized Crime, in 2002; and its protocols to prevent, suppress and punish trafficking in persons, especially women and children, and against the smuggling of migrants by land, sea and air, in 2004.

C. Concerns and recommendations

Relevant data

10. While noting the State party's position that it does not collect population data disaggregated by ethnic origin, the Committee notes the absence from the report of statistical data on the composition of the population. It also notes the lack of relevant socioeconomic indicators on the enjoyment of the rights guaranteed under the Convention by members of various groups, in particular the Amazigh and non-citizens, as such data are necessary to determine the progress made and difficulties encountered in implementing the provisions of the Convention (arts. 1 and 5).

In the light of 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 revised guidelines for the preparation of periodic reports (CERD/C/2007/1), the Committee recalls the usefulness of disaggregated data on the ethnic composition of the population. Relevant information on the socioeconomic and cultural situation and living conditions of different groups within the population can be used by the State party as a valuable tool for taking the necessary measures to ensure the enjoyment by all of the rights enshrined in the Convention and to prevent discrimination based on ethnic origin and nationality.

Definition of racial discrimination

11. The Committee regrets that the State party has not yet adopted a definition of racial discrimination in line with article 1 of the Convention (art. 1).

Recalling its general recommendation No. 14 (1993), concerning article 1, the Committee recommends that the State party incorporate into its domestic legislation a definition of racial discrimination that is consistent with article 1 of the Convention and that applies to all areas of public and private life.

Criminalization of racial discrimination

12. The Committee reiterates its concern that the State party's legislation does not classify racial discrimination as an offence in line with the Convention. While noting the reference made to the offences of defaming and insulting persons belonging to ethnic groups, the Committee is concerned that relevant provisions do not reflect the entire content of article 4 of the Convention (arts. 2 and 4).

The Committee recommends that the State party expedite the legislative reform announced by the delegation and incorporate the prohibition of racial discrimination into the Criminal Code, in accordance with the Convention. In this regard, the Committee draws the attention of the State party to general recommendations No. 7 (1985) and No. 15 (1993) on the application of article 4 of the Convention, which underscore the urgent need to adopt legislation to eradicate racial discrimination. It recommends that the envisaged legislative amendments cover all aspects of article 4 of the Convention and that the State party ensure the effective implementation of the legislation.

Absence of complaints of racial discrimination

13. The Committee takes note of the information provided by the State party that no complaints relating to acts of racial discrimination have been brought before the courts, not even in civil proceedings. It regrets that the Convention has never been applied by the courts, even though, under the Constitutional Council decision of 20 August 1989 and pursuant to article 132 of the Constitution, international treaties ratified and published by the State party take precedence over domestic law and thus any Algerian citizen can invoke them before the national courts. The Committee recalls that it does not accept the general assertion that there is no racial discrimination in States parties to the Convention (arts. 2 and 6).

Recalling its general recommendation No. 31 (2005) on racial discrimination in the administration and functioning of the criminal justice system, the Committee emphasizes that the absence of complaints concerning acts of racial discrimination is not necessarily an indicator of the absence of racial discrimination in the State party. In this regard, it requests the State party to ensure that the population is aware of its rights, specifically of all legal remedies in connection with racial discrimination, including the right to invoke the Convention before the domestic courts. Furthermore, the Committee asks the State party to include comprehensive information on complaints lodged and the follow-up given to them in its next periodic report.

Promotion of the Amazigh language

14. While noting the measures taken to promote the Amazigh language and culture, including teaching of the language in schools, the Committee is concerned by reports that there are not enough qualified teachers and teaching materials and that Amazigh-language teaching has been abolished in several *wilaya* communes. It also regrets that, despite its status as a national language, the Amazigh language is not yet recognized as an official language and is thus excluded from areas of public life such as the public administration and the justice system (art. 5).

The Committee notes the State party's statement on the additional efforts that will be made and strongly encourages it to ensure that the Amazigh language is taught at all levels of education and is established as an official language so as to further promote its use throughout the country.

Promotion of economic, social and cultural rights of Amazighs

15. The Committee is concerned by reports about economic disparities, affecting in particular the regions inhabited by Amazighs, who allegedly do not benefit from adequate public investment. In addition, while it takes note of the activities of the High Commission on Amazighness, the Committee is concerned by the lack of information on consultation and involvement of Amazighs in those activities and on the real impact of the activities on the promotion of Amazighs' rights (art. 5).

The Committee recommends that the State party step up its development efforts in the most disadvantaged regions, especially those inhabited by Amazighs. The Committee also recommends that the role and activities of the High Commission on Amazighness be strengthened and that its activities be carried out both for and with the Amazighs in a manner that ensures respect for their rights and freedoms. The Committee invites the State party to include in its next periodic report information on the results of the High Commission's work and the impact of its activities.

Right to use Amazigh first names

16. The Committee is concerned by the fact that civil registrars in certain *wilaya* communes refuse to register Amazigh first names on the ground that they do not appear on "the list of Algerian first names" (art. 5).

The Committee takes note of the information provided by the State party concerning the revision of the list of first names to include 500 Amazigh first names, and recommends that it take the necessary steps to ensure, de facto and de jure, that all Algerians can freely choose their children's first names and register them with a civil registrar without encountering discrimination of any kind.

Situation of women, especially Amazigh women

17. While the Committee commends the State party on the measures adopted to increase the number of women in decision-making positions, it is concerned by the fact that Amazigh women risk being subjected to double discrimination on the basis of ethnicity and gender (art. 5).

The Committee draws the attention of the State party to general recommendation No. 25 (2000), concerning gender-related dimensions of racial discrimination, and recommends that it continue to promote women's rights, focusing in particular on Amazigh women.

Situation of non-citizens, including migrants and refugees

18. The Committee is concerned by the failure to apply legislation establishing the right to asylum. While noting the adoption of Act No. 09-02, concerning legal assistance, which is available to any legal alien present in Algeria, the Committee is concerned by the absence of procedures to allow irregular migrants to lodge complaints (arts. 5 and 6).

The Committee recommends that the State party adopt the bill on the right to asylum expeditiously with a view to the implementation of the international treaties that Algeria has ratified on the right to asylum and the granting of refugee status without any form of discrimination. The Committee draws the State party's attention to the need to facilitate the integration of migrants and refugees living on its soil and to provide access to justice for undocumented migrants in the event of an infringement of their fundamental rights.

Education and awareness-raising about the Convention

19. The Committee takes note of the human rights training and awareness-raising activities organized by the State party for, among others, trainee judges and law enforcement personnel. The Committee is nevertheless concerned by the persistence of racist stereotypes and by the hate speech that is sometimes directed against the Amazighs, asylum seekers, refugees and sub-Saharan Africans (art. 7).

The Committee recommends that the State party step up its efforts in the area of human rights training with a particular focus on action to combat racial discrimination, respect for diversity and cross-cultural relations. It urges the State party to pay particular attention to training for teachers, civil registrars and law enforcement personnel. It furthermore calls on the State party to organize public awareness campaigns on these themes.

National human rights institution

20. The Committee notes with concern that the National Advisory Commission for the Promotion and Protection of Human Rights has had its accreditation status downgraded from “A” to “B” by the Sub-Committee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. It regrets the absence of information on follow-up by the Commission to racial discrimination cases filed by individuals or groups, notwithstanding the persistent allegations made concerning discrimination based on ethnicity or nationality (art. 2).

The Committee recommends that the State party take all necessary measures to expedite the adoption of the new law on the National Advisory Commission for the Promotion and Protection of Human Rights in order to bring it into full conformity with the Paris Principles (General Assembly resolution 48/134). In the light of its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate implementation of the Convention, the Committee recommends that the National Advisory Commission for the Promotion and Protection of Human Rights be empowered to review Government policies on protection from racial discrimination and to verify that the legislation is in conformity with the Convention.

Human trafficking

21. While taking note of the adoption of Act No. 9-01 of 25 February 2009, which provided for the inclusion of human trafficking as an offence under the Criminal Code, the Committee is concerned by the lack of support services for human trafficking victims, most of whom are non-citizens (arts. 5 and 6).

The Committee recommends that the State party take all necessary measures not just to punish the traffickers but also to provide legal and institutional assistance to the victims, in particular non-citizens who do not have a valid residence permit.

D. Other recommendations

Follow-up to the Durban Declaration and Programme of Action

22. In the light of its general recommendation No. 33 (2009), concerning follow-up to the Durban Review Conference, the Committee recommends that the State party take account of the Durban Declaration and Programme of Action, as adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in September 2001, and also of the outcome document of the Durban Review Conference held in Geneva in April 2009. The Committee requests that the State party include specific

information in its next periodic report on plans of action and other measures adopted to implement the Durban Declaration and Programme of Action at the national level.

Dialogue with civil society

23. The Committee recommends that the State party continue to intensify its dialogue with civil society organizations working in the area of human rights protection, particularly those involved in combating racial discrimination, and that it consult them when it prepares the next periodic report.

Amendments to article 8 of the Convention

24. The Committee recommends that the State party ratify the amendments to paragraph 6 of article 8 of the Convention that were adopted on 15 January 1992, at the Fourteenth Meeting of the States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, and approved by the General Assembly in resolution 47/111. In this connection, the Committee refers to resolutions 61/148, 63/243 and 65/200, in which the General Assembly strongly urges States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

Dissemination

25. The Committee recommends that the State party make its periodic reports easily accessible to the public at the time of their submission and disseminate the Committee's concluding observations on those reports in the official language of the State and other commonly used languages.

Common core document

26. The Committee encourages the State party to regularly update the core document (HRI/CORE/Add.127) submitted in 2003 in line with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document, as adopted at the fifth annual meeting of the chairpersons of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

Follow-up on concluding observations

27. In conformity with paragraph 1 of article 9 of the Convention and rule 65 of the Committee's revised rules of procedure, the Committee requests the State party to inform it within one year of the adoption of the present concluding observations of the measures taken to follow up on the recommendations set forth in paragraphs 12, 16 and 20 above.

Paragraphs of particular importance

28. The Committee also wishes to draw the State party's attention to the particular importance of the recommendations in paragraphs 15, 17 and 18 and requests that the State party include detailed information in its next periodic report on the specific steps taken to implement those recommendations.

Preparation of the next report

29. The Committee recommends that the State party submit its twentieth and twenty-first periodic reports, in a single document, by 15 March 2015, taking due account of the guidelines on the Convention-specific document that were adopted by the Committee at its seventy-first session (CERD/C/2007/1), and that it respond to all the points raised in the

present concluding observations. The Committee furthermore urges the State party to adhere to the limit of 40 pages for treaty-specific reports and 60–80 pages for the core document (see HRI/GEN.2/Rev.6, chap. I, para. 19).
