



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/SR.1572
21 March 2003

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-second session

SUMMARY RECORD OF THE 1572nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 2003, at 3 p.m.

Chairman: Mr. DIACONU

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY
STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Fifteenth and sixteenth periodic reports of Poland

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.03-40809 (E) 180303 210303

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fifteenth and sixteenth periodic reports of Poland (CERD/C/384/Add.6 and CERD/C/299/Add.10; CERD/C/304/Add.36; HRI/CORE/1/Add.25/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Poland took places at the Committee table.
2. Mr. KRÓLAK (Poland), introducing the State party's sixteenth periodic report (CERD/C/384/Add.6), referred to the profound social and legal changes that had taken place in Poland during the reporting period. As explained in the report in detail, he said that the new Constitution which had entered into force in 1997 contained provisions guaranteeing equality before the law and freedom of religion and worship and ensuring the rights of minorities, including in matters concerning their language and cultural identity. In the period under consideration, the Government had introduced an administrative reform to strengthen local authorities as well as changes in the educational, health care and social security system. A new Penal Code had entered into force on 1 September 1998. Legislation had been amended to meet the requirements for accession to the European Union.
3. In keeping with the Committee's recommendation in its concluding observations (CERD/C/304/Add.36, para. 22), the report was an update and set out new developments in legislation and practice of relevance to the implementation of the Convention. In response to the recommendation in paragraph 14, the report explained the status of the Convention in domestic law (paras. 14 and 15). The Convention and other international agreements to which Poland was a party were regarded as sources of universally binding law. Following up another Committee recommendation, the report discussed legislation introduced to ban organizations and political parties which invoked racial and national hatred in their programmes (paras. 51 and 52). Paragraphs 61 to 63 provided statistics on indictments for acts of racial discrimination and cited a number of specific cases.
4. Referring to the recommendation in paragraph 16 of the concluding observations, he said that data on national and ethnic minorities in Poland had been updated. In May and June 2002, a population census had been conducted, in which respondents had been asked what nationality they felt they belonged to and what language they used at home. The census-takers had not offered a set list of possible nationalities or languages, but had merely taken down the respondents' replies.
5. The report contained extensive information on the implementation of article 5 of the Convention (paras. 64 to 96). It described action taken to provide children belonging to national minorities with schooling in their mother tongues and initiatives targeting the particular educational needs of Roma children. Legislation had been amended to ensure that children

belonging to national and racial minorities could attend classes and take final examinations in their mother tongue throughout primary and secondary school. New measures envisaged considerable increases in subsidies for schools with pupils from national minorities. Schools in which Roma children were enrolled had also received additional funding.

6. In 2001, the Government had introduced a three-year pilot project for Roma communities in the province of Małopolska to improve the material situation, social status and health care, to promote the education and culture, and to enhance the security and employment situation of the Roma. The public authorities at national and local level, non-governmental organizations (NGOs) and representatives of the Roma community were participating in the project. In the past two years, school attendance of Roma children had increased; their grades had improved, Roma parents had shown a heightened interest in the education of their children, and a growing number of Roma children had pursued their education further. The pilot project fulfilled the criteria of the European Commission and the Organization for Security and Cooperation in Europe with regard to assistance to Roma communities. Periodic reports by the European Commission attested to the improving situation of the Roma. The experience gained in the pilot project would be drawn upon for Poland's long-term nationwide programme for Roma communities, to be launched in 2004.

7. He then referred to the activities of the Task Force for National Minorities, a consultative body which reported to the Prime Minister and served as a forum for dialogue between the Government and representatives of national and ethnic minorities. One subgroup of the Task Force focused on education for the Roma minority. Another, on national minorities, had elaborated a strategy document on the education of the Lithuanian minority. Implementation of the strategy's goals by the national Government, the local authorities of Podlasie province and representatives of the Lithuanian minority was being closely monitored.

8. Poland's fourth periodic report (CERD/C/299/Add.10), the Committee's concluding observations and the relevant summary records had been widely disseminated and made available to major libraries and universities, and they had been placed on the web site of the Ministry of Justice. The sixteenth periodic report and the Committee's concluding observations would be made available in a similar fashion. NGO bodies, such as Amnesty International, the Helsinki Foundation for Human Rights, and the Women's Rights Centre, had been consulted during the preparation of the report.

9. In a new development since completion of the sixteenth periodic report, he said that the Government had decided in June 2002 to make the prevention of racial and national discrimination part of the functions of the Government Plenipotentiary for Equal Status of Men and Women. As part of Poland's preparations for acceding to the European Union, in 2003 the Plenipotentiary had joined the European Commission's Community Action Programme to Combat Discrimination 2001-2006. The Government had also initiated a project to raise public awareness of the issues of discrimination, xenophobia and intolerance and establish institutional structures to help Poland implement the Union's non-discrimination law in employment and other areas.

10. The Polish Parliament was currently considering a draft amendment to article 256 of the Penal Code, which would make it an offence to prepare, collect, store, transport, sell, purchase or disseminate materials which incited hatred on the basis of national, ethnic, racial or religious grounds. The new law would allow such materials, as well as the means of their production and dissemination, to be confiscated. As of 1 January 2002, stricter provisions had been introduced governing discrimination in hiring on the basis of gender, age, disability, nationality, political or religious beliefs or trade union membership. The prohibition of gender discrimination in hiring and at the workplace had been more carefully defined. Amendments of the Labour Code had been submitted to the Sejm requiring employers to ensure a work environment free of all forms of discrimination. More severe penalties had been introduced for failure to comply with the prohibition of discrimination.

11. On related issues, he said that the act of 6 January 2000 had established the office of the Ombudsman for Children, who protected children's rights and took action on his own initiative in response to allegations of violations of children's rights or interests. The Universal Insurance Act, adopted by Parliament on 23 January 2003, had clarified a number of points concerning health-care insurance for foreigners.

12. The electronic media played a significant role in combating discrimination and stereotypes. The draft amendment to the Radio and Television Broadcasting Act had introduced an important change concerning national minorities by adding the category of "social broadcaster".

13. Poland had taken a number of steps to ensure full compliance with its requirements under the Convention. Pursuant to the directive of 28 September 1998, it had recognized the competence of the Committee to receive and consider communications from individuals or groups claiming to be victims of violations of any of the rights set out in the Convention. Following up the Committee's recommendation in paragraph 21 of its concluding observations, on 23 August 2002 Poland had ratified the amendments to article 8 of the Convention. On 16 October 1997, it had notified the United Nations Secretary-General that it had withdrawn its reservation with respect to article 22 of the Convention.

14. Poland had been an active participant in the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and was working to implement its recommendation on the drafting of a national plan of action for the prevention of racial discrimination, xenophobia and intolerance. It was considering acceding to the Additional Protocol to the Council of Europe's Convention on Cybercrime. On 13 February 2002, Poland had signed the two Additional Protocols of the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; the ratification process was under way.

15. On 1 March 2003, the ratification by Parliament of Protocol No. 7 of the European Convention on Human Rights had entered into force. Poland had acceded to the Council of Europe's Framework Convention for the Protection of National Minorities on 1 April 2001 and

submitted its report on implementation of the Framework Convention to the Council of Europe on 10 July 2002. In 2000, the Government had hosted a conference on the legal status of national minorities in Poland in the light of the Framework Convention and, in 2001, a meeting of the Vyshehrad Group to discuss legal safeguards and the experience gained by individual countries in implementing projects for national and ethnic minorities.

16. In closing, he stressed that no complaint of racial discrimination had ever been filed against the Government with the Human Rights Committee or the European Court of Human Rights.

17. Mr. RESHETOV (Country Rapporteur) welcomed the fact that the Polish Government had agreed to make the declaration under article 14, had accepted the amendment to article 8 and had withdrawn its reservation to article 22 of the Convention. The periodic report's assertion that there was full conformity between the provisions of the Convention and the principles embodied in the Constitution, while laudable from the point of view of principles, should not be interpreted as meaning that the law or practice in Poland was in full conformity with the Convention, since full conformity in practice was a situation that simply could not exist in any country. The report emphasized the obligation of the State to ensure human rights and freedoms. However, under the Convention, lower levels of government and other sectors of society were expected to take part in safeguarding human rights, even if the primary responsibility fell on the State. He expressed the hope that the exclusive emphasis on the public authorities' responsibility would not detract from the importance given to the activities of other organizations and groups that might also significantly influence the implementation of the Convention.

18. Had any NGOs taken part in the preparation of the report, and if so, in what way? The report set out a constitutional provision that ensured certain freedoms for Polish citizens belonging to national and ethnic minorities. Were such freedoms restricted to citizens only? The Committee could only welcome the fact that the Convention was directly applicable in domestic law and had precedence over domestic statutes. It would be useful if in future reports the State party could provide information on actual cases in which the Convention had thus been invoked.

19. In the past 60 years Poland's ethnic composition had undergone major changes. National minorities currently accounted for a small proportion of the population, but the situation had been quite different prior to the annihilation of the Jewish and Roma communities during the German occupation. After 1945, some 4.5 million Poles had moved to Poland from the Soviet Union; about 3 million Germans had left Poland and some 500,000 Ukrainians had moved to what was then the Soviet Union. While the composition of the population had changed dramatically, many national prejudices and views had persisted. The situation of minorities had begun to change in 1989 with the establishment of the National and Ethnic Minorities Committee in the Sejm. That parliamentary Committee was currently preparing a draft law on minorities. It would be of great interest to the members of the Committee if the delegation could describe the status and provisions of the draft legislation.

20. There were two main problems related to recognition of ethnic minorities by the State. First, the State apparently restricted the status of minorities solely to citizens. Secondly, it was unclear how the State party proceeded and what criteria it used for the official recognition of

ethnic minorities, which had a considerable impact on their situation as it brought with it State funding for the groups, including support for their educational activities. A number of NGOs had reported that some small ethnic groups had failed to obtain such recognition. According to some NGOs, there had been irregularities in the census, whereby census takers did not accurately record information on ethnic minorities, or had even falsified information. It would be helpful if the State party took that into account when carrying out the next census, in order to ensure that it accurately reflected the ethnic composition of the country.

21. The Polish Government had established the Office of the Commissioner for Citizens' Rights, an institution that had been emulated by many of the other countries in the region. It would be of interest to the Committee to find out how many complaints of human rights violations had been received by that Office and how such cases were handled. The Committee had in 1997 expressed its concern regarding the fact that the legal framework was insufficient to prohibit groups disseminating ideas based on incitement to racial hatred and racial discrimination. The report set out a list of laws that directly or indirectly addressed the problem, including the relevant articles of the Penal Code. Such laws were extremely important, all the more so since many NGOs had reported to the Committee that organizations inciting racial hatred did indeed exist in Poland. The Committee would greatly appreciate an overview of the steps that had been taken against them under the provisions in question.

22. From the report, he had gained the impression that the Government did not combat racist acts against the Roma and Jewish communities consistently enough, since many of the cases did not result in indictments. NGOs had reported that verbal and other attacks took place not only against those communities, but also against Lithuanians, Belarusians, Ukrainians and Germans, who were exposed to discrimination in housing and employment.

23. The information in the report concerning the employment of foreigners covered only the number of work permits issued, without mentioning the number of applications for employment received, an approach that would have been more informative. Could non-citizens join trade unions and serve on their executive bodies? Were any occupations restricted to citizens only? Was it true, as stated in the report, that non-citizens had to pay for education and care in Polish public schools and educational institutions? Many NGOs had reported that the Roma minority had encountered difficulties in education, because Polish language courses for Roma children had resulted in segregation. Furthermore, those children were oriented toward certain subjects at school, and as a result their education levels remained relatively low, with later repercussions on their ability to secure employment.

24. There had been significant and positive changes in Poland since consideration of the previous report, but some of the Committee's concluding observations were still valid, especially in respect of measures to suppress organizations inciting racial hatred and to punish racially motivated acts of vandalism and attacks. Overcoming those problems would be of prime importance in supporting democracy and human rights in Poland and in helping that country to fulfil its important role in Europe and the world.

25. Mr. VALENCIA RODRIGUEZ, referring to paragraph 32, noted that Polish was the country's only official language. Other languages were admitted only by virtue of the provisions of the Code of Administrative Procedure, Code of Civil Procedure and Code of Criminal

Procedure. Did that mean that minorities could use only the languages recognized in those codes? What stage had the bill on national minorities reached? Had it taken account of the aforementioned potential barrier to the use of languages?

26. The Committee should be kept informed about the activities of the Inter-Departmental Team for National Minorities, the Department of Citizenship, the Ministry of Culture and National Heritage and the National Council of Radio Broadcasting and Television. Adequate coordination was needed between those bodies to avoid duplication of effort and to ensure optimal use of financial and human resources.

27. Overall, the country satisfied the requirements under articles 4 and 5 of the Convention. He particularly appreciated the information in paragraphs 51 and following of the report on cases prosecuted under the Penal Code. Measures should be reinforced to ensure that perpetrators were duly identified and that cases did not end in dismissal. It would also be appropriate to reconsider the discretion allowed to the District Physicians' Chamber in granting permission to non-Polish doctors to practise their profession.

28. He noted that the majority of foreigners granted work permits in 1998 had been Europeans, followed by Asians. The situation was understandable but in the future efforts should be made to achieve greater balance. Corrective measures should be taken to alleviate the relatively high rate of unemployment, particularly in northern and north-western Poland, since the situation affected minorities first and foremost.

29. Referring to paragraph 93, he asked when the amendment on free education for non-Polish children in primary and grammar schools would enter into force. What had been the results of the country's policies on the promotion of cultural identity?

30. According to paragraph 44, the resolution of disputes arising from contractual relationships between natural persons fell exclusively within the competence of the courts. Could further detail be provided in that regard? Did criminal proceedings always have to be followed by independent civil action if compensation or redress was sought for acts of racial discrimination?

31. Mr. de GOUTTES, referring to paragraph 26, wished to know whether a brochure would be published on the procedure for submitting individual communications to the Committee under article 4 of the Convention. The fact that information concerning a person's ethnic origin could be collected only with that person's consent was in compliance with the Committee's recommendations. It would be interesting to have the latest data on the composition of the population. He noted that article 258 of the Penal Code punished any group or association "having for its purpose the commission of offences". However, it did not specifically mention organizations promoting racial discrimination. Clarification in that regard would be appreciated. He wished to have information on the outcome of the criminal cases described in paragraphs 62 and 63. What kind of complaints had the Commissioner for Citizens' Rights received and what solutions had been found?

32. According to Amnesty International and the “Never Again” association, serious problems of racism and intolerance persisted in the country. In its 2002 report, Amnesty International gave accounts of racial violence against Roma, Africans and immigrants, which had been insufficiently investigated by the police. In a report published on 21 February 2003, the “Never Again” association had recorded dissemination of racial and anti-Semitic symbols by neo-Nazi associations, in particular in football stadiums. The Committee was concerned that some political parties held racist discussions and talks. According to the “Never Again” report, the country’s authorities had received requests to ban three political parties in particular. What follow-up had been given to those requests? Events in Chechnya had allegedly led to an influx of Chechen refugees into the country. What was the Government’s policy vis-à-vis Chechen refugees? Lastly, what anti-terrorism legislation had been adopted following the events of 11 September 2001?

33. Ms. JANUARY-BARDILL wondered whether it would not be more appropriate to refer to the “needs” rather than the “problem” of national minorities in paragraphs 37 and 107. While paragraphs 55 and following focused on minorities, no information had been given about the dominant group. She stressed the importance of looking more at the mainstream culture and the racism which might be embedded in it. Very little mention had been made either of political and economic integration.

34. Since article 7 of the Convention focused on the measures taken to prevent and remedy racial discrimination through education, the relevant section in the report should contain information on programmes designed to raise the awareness of teachers and public servants with regard to racism. Most of the information on education should have been placed under article 5 of the Convention.

35. Mr. LINDGREN ALVES asked what steps the Government was taking to disseminate a human rights culture. A number of sources had reported discrimination against Jewish and Roma people and other minorities. Government authorities had allegedly given interviews to certain magazines known for propagating fascist ideas. He wondered why anti-Semitic and racist attitudes persisted and wished to know why the level of education among minorities was inferior to that in the rest of society. Information would be welcome concerning measures taken to disseminate and implement the Durban Declaration.

36. Mr. YUTZIS believed that the issue of minority languages should not necessarily be governed by procedural norms but should be linked more with the treaty bodies. He was pleased that the Commission for National and Ethnic Minorities was dealing with the issue. He noted that paragraphs 51 and 52 attempted to link such concepts as totalitarianism, fascism and communism to racial discrimination, but he believed that the information provided was not completely satisfactory with regard to the provisions of article 4 of the Convention. Almost all the articles of the Penal Code listed in paragraphs 53 and 54 referred to persons, not institutions. No examples had been given of institutions being held responsible for publishing racist material. He believed that newspapers or magazines could deny responsibility for private ideas only up to a certain point and should not allow racist material to be published.

37. Referring to paragraph 62, he wondered what had happened to the publishers of the book “Dangerous Topics”. The court had emphasized that only an insignificant number of copies had ever reached the bookshops. Had copies of the book gone only to bookshops, or also to churches, schools and other places? He stressed the importance of penalizing institutions which allowed such works to be published or translated and wished to know what legislation was in place in that regard.

38. Referring to the report by the “Never Again” association, he pointed out that some people used culture to propagate ideas against the Convention. It was important to investigate the cases described in the report, in particular since young people had been involved. Lastly, he asked to what extent NGOs had participated in the preparation of the report and what measures were being taken to disseminate the Convention.

39. Mr. TANG Chengyuan said that there were some indications that acts of racial discrimination in Poland were increasing, especially those directed towards persons from the Roma community. For example, some Roma individuals had allegedly not been allowed to register at the local level. Could the delegation comment on those allegations? In his view, the Government should strengthen its legislation and give financial and economic assistance to the Roma. Were there other ways in which the problem might be addressed?

40. Poland had apparently accepted many refugees from Chechnya and elsewhere. There had been reports that since the Chechen terrorist attack in Moscow, local Polish authorities were treating Chechen refugees like terrorists. While it was necessary to combat terrorism, confusing ordinary Chechens with those who had committed a terrorist act was a violation of their basic human rights. He wondered whether the delegation could confirm the truth of those reports and if so, comment on how the Government might address the problem.

41. Mr. THIAM observed that there were discrepancies in the various reports concerning the total number of members of minority groups in Poland. They ranged from 1.3 million in the thirteenth and fourteenth periodic reports (CERD/C/299/Add.10) to 640,000 in the fifteenth and sixteenth periodic reports (CERD/C/384/Add.6). Could the delegation explain the reason for those discrepancies? It was an important question, given the allegations of racial violence and dissemination of racist propaganda that had been levied against certain government agencies. Were those acts responsible for the drop in the number of minorities?

42. According to information he had received, the Office of the Ombudsman had apparently encountered resistance from the authorities in its investigation and proceedings against perpetrators of violent acts and racist propaganda. Were those allegations true? When the perpetrators of those acts were brought to justice, their sentences were said to have been reduced under pressure from extremist parties. Could the delegation provide statistics on which cases had been brought before the courts and which had been handled by the Ombudsman? Such facts would shed light on the effectiveness of measures implemented in Polish legislation to conform to international human rights conventions.

43. He drew the delegation’s attention to the Committee’s concluding observations on the thirteenth and fourteenth periodic reports of Poland, in which the Committee had requested more precise statistical information on minorities (para. 16) and had noted its concern over serious acts

of violence relating to racial discrimination that had targeted Jewish and Roma minorities in particular. He asked what the relationship was between the Office of the Ombudsman and the courts. What types of cases were the exclusive domain of the Ombudsman and what effect did the latter's decisions have? He also wondered what legislative measures existed to ensure the rights of foreigners and refugees and what the requirements were for obtaining Polish nationality. How did Polish legislation facilitate the activities of United Nations bodies in their humanitarian work, especially in their efforts on behalf of refugees and foreigners?

44. The CHAIRMAN, speaking as a member of the Committee, said that the Government had undertaken many legislative, administrative and executive measures to respond to the requirements of the Convention, particularly special measures for minority education, which were unprecedented in other countries. It was positive that representatives of the Roma were participating in projects benefiting their community, since they could mobilize their people to implement the projects. He observed that the special programme for the Roma had been initiated only in the province of Malopolski. He asked whether the Roma lived only in that province or whether they were to be found in other provinces as well.

45. He found it extraordinary that no complaints had been filed against the Government of Poland with the European Court of Human Rights; other countries had had thousands of complaints filed against them. He wondered how a country like Poland with 40 million inhabitants could possibly not have received a single complaint.

46. Mr. AMIR, noted that in a case involving the publication of racist literature, the publisher had been duly sanctioned; however, it did not appear that any efforts had been taken to discourage that type of activity in the future. It would seem that a country like Poland, which had disappeared from the map of the world several times, would, more so than other countries, be a proponent of peace, not only at home, but also in the region. The Government should do all in its power to set up a legal, judicial and regulatory shield to protect its people, especially its minorities, from racial discrimination. The Committee's internal working methods enabled it to make progress in understanding how to eliminate racial discrimination, but it was only through the practical implementation of its recommendations by the States parties that those ideas became reality.

47. Mr. THORNBERRY agreed with the views expressed by Ms. January-Bardill and Mr. Lindgren Alves regarding minorities. He observed that there were many references in the periodic report to the term "national minorities". Had the Government established a definition for that term? A case involving the registration of the Union of People of Silesian Nationality had been mentioned. He wondered whether the problem was related to their not having been recognized as a minority or whether it had to do with the Law on Associations instead. The method of census-taking used by the Government, employing self-definition and open questions, was very professional.

48. Two new articles had been added to the Penal Code, one of which contained a ban on acting against "a group with a different perspective on life". What did that phrase mean? Separate measures had been taken to address the educational needs of Roma children by providing them with classes in the Roma language, as well as instruction in adapting to the Polish education system. Those classes were designed to equip them with the necessary skills

and knowledge to function well in society, while enabling them to maintain their culture. However, the Government should bear in mind that according to international standards, the educational standards in such situations should be equal, and not inferior to the general standard within the Polish system.

49. He reviewed some of the pertinent articles of the Committee's General Recommendation XXVII on Discrimination against Roma, including paragraphs 18, 23 and 26. The recommendations provided good guidance for State policy. To what extent did the delegation believe that the situation described in paragraph 107 measured up to those standards? On the issue of intercultural education, it was his view that the majority community in Poland should be made aware of the culture of minorities, as such reciprocity of knowledge would lead to mutual respect and tolerance.

50. The CHAIRMAN invited the delegation to return at the following meeting to respond to the Committee's questions and comments.

51. Mr. KRÓLAK (Poland) thanked the Committee for its interest in the issues described in Poland's report. Some of the Committee members had talked about the linguistic drawbacks of the report. He wished to clarify that the question of the so-called "problem" of racial minorities did not arise so much from the fact that the Government saw minorities as posing a problem as from its desire to address and resolve the issues concerning them. Resolving racial discrimination was a dynamic process; indeed, no country in the world could say that its implementation of the Convention was a finished matter. The Polish delegation was at the Committee's disposal and would do its utmost to answer Committee members' questions at following meeting.

The meeting rose at 5.55 p.m.