

Distr.: General
16 March 2010

Original: English

**ADVANCE UNEDITED
VERSION**

Committee on the Elimination of Racial Discrimination

Seventy-sixth session

15 February – 12 March 2010

Consideration of reports submitted by states parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Netherlands

1. The Committee considered the consolidated seventeenth to eighteenth reports of the Netherlands (CERD/C/NLD/18) at its 1986th and 1987th meetings (CERD/C/SR/1986 and CERD/C/SR/1987), held on 23 and 24 February 2010. At its 2003rd meeting (CERD/C/SR/2003), held on 5 March 2010, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the seventeenth to eighteenth periodic reports by the State party. It expresses its appreciation for the constructive dialogue held with the delegation and the extensive written and oral responses to the list of issues and the questions posed by Committee members.

B. Positive aspects

3. The Committee notes with appreciation the following measures taken by the State party since the examination of its last periodic report:

(a) the enactment of the Municipal Anti-Discrimination Services Act, which entered into force on 28 July 2009, and which obliges municipalities to provide easily accessible facilities for handling complaints about discrimination from members of the public;

(b) the entry into force, on 1 December 2007, of the new Instructions on Discrimination to the police and Public Prosecution Service and the requirement for the police to keep a record of every report and formal complaint of discrimination;

(c) the ratification, in November 2006, of the Council of Europe's Convention on Cybercrime, the very recent approval by the House of Representatives of the Additional

Protocol to the Convention and its introduction to the Senate with a view to early ratification;

(d) the establishment, in February 2008, of an anti-trafficking task force to coordinate government measures to combat trafficking; and

(e) the “Discrimination? Call now!” campaign launched in June 2004 to raise awareness of discrimination and to direct the attention of victims of discrimination to the national helpline and other resources.

C. Concerns and recommendations

4. While acknowledging that the Government’s letter to Parliament on integration (November 2009) contains information on policies and measures to combat discrimination, the Committee notes that the letter does not constitute an adequate replacement for the comprehensive plan of action to combat discrimination that had been in place until 2007. The Committee is also concerned that the current policy on integration has effectively shifted the primary responsibility for integration from the State to immigrant communities. (art. 2)

The Committee recommends that the State party proceed with the expeditious preparation and implementation of a plan of action to address discrimination in all areas covered by the Convention. It also recommends that the State party ensure that its integration policies reflect an appropriate balance between the responsibilities of the State under the Convention and the responsibilities of immigrant communities.

5. The Committee notes that, under the Civic Integration (Preparation Abroad) Act, migrants from certain countries requiring a temporary residence permit to enter the Netherlands for family formation or unification must pass the civic integration examination before entering the country. As this requirement applies only to migrants from certain countries, the Committee is concerned that the application of the Act results in discrimination on the basis of nationality, particularly between so-called “Western” and “non-Western” state nationals. (arts. 2 and 5)

The Committee recommends that the State party review this legislation with a view to abolishing the discriminatory application of the civic integration examination abroad to “non-Western” state nationals. The Committee, furthermore, urges the State party to ensure the systematic review of its immigration laws to ensure compatibility with the Convention.

6. The Committee takes note of the State party’s information that its anti-discrimination policies are not aimed at specific groups. It is concerned, however, that this may result in indirect discrimination and insufficient attention being paid to the needs and concerns of groups which may, at different periods of time, be particularly susceptible to direct or indirect discrimination. (art. 2)

The Committee encourages the State party to maintain a flexible approach to addressing discrimination, whether direct or indirect, including through appropriate special measures in line with General Recommendation 32 (2009), where such discrimination affects specific groups disproportionately.

7. The Committee is concerned that the de facto segregation of educational establishments, particularly primary and secondary schools, remains a problem in the State party and that measures such as the establishment of the Mixed Schools Knowledge Centre and the role assigned to the Education Inspectorate in promoting integration have proved inadequate. (art.3)

The Committee urges the State party to increase its efforts to prevent and abolish segregation in education, including through the review of admissions policies which may have the effect of creating or exacerbating this phenomenon and other disincentives to such segregation.

8. The Committee is concerned at the incidence of racist and xenophobic speech emanating from a few extremist political parties, the continuing incidence of manifestations of racism and intolerance towards ethnic minorities and the general deterioration in the tone of political discourse around discrimination. (art. 4)

The Committee urges the State party to take more effective measures to prevent and suppress manifestations of racism, xenophobia and intolerance and to encourage a positive climate of political dialogue, including at times of local and national election campaigns.

9. The Committee welcomes the State party's concerted efforts to police and remove discriminatory or racist material from Dutch websites. Nevertheless, it is concerned that the dissemination of such material through the internet remains widespread. (art. 4)

The Committee recommends that the State party intensify its efforts to combat the dissemination of ideas based on racial superiority through the internet as well as other media, including racist speech by political parties.

10. **While acknowledging the general information provided by the State party regarding offences involving discrimination, the Committee regrets the lack of detailed information, in the State party's report, on acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. (art. 4)**

The Committee recommends that the State party provide detailed information on the prevalence of these offences and the number of prosecutions and convictions, as appropriate.

11. While noting the high number of asylum-seekers admitted by the State party, the Committee is concerned at the practice of detaining unaccompanied children and families with children upon their arrival in the Netherlands. (arts. 2 and 5)

The Committee recommends that the State party effectively implement its stated policy of using detention as a measure of last resort and redouble its efforts to establish alternative living arrangements for families and children in such situations.

12. Despite the measures taken by the State party, including the Social Cohesion Initiative and the establishment of the National Diversity Management Network, the Committee takes note of information that rates of unemployment in ethnic minority groups, particularly women, are significantly higher than average. The Committee is also concerned at the under-representation of ethnic minorities in senior positions in the public and private sectors. (art. 5)

The Committee recommends that the State party take more effective measures to eliminate discrimination in access to employment, through, inter alia, awareness raising campaigns in the private and public sectors. The Committee urges the State party also to implement measures to achieve the equitable representation of ethnic minorities in elected bodies and other public sector services. The Committee encourages the State party to consider the use of special measures to address the above disparities, as envisaged in article 1 of the Convention, taking into account General Recommendation 32 (2009).

13. The Committee notes with concern the prevalence of discrimination in the admissions policies and practices of fitness centres, catering establishments and places of entertainment. (art. 5)

The Committee recommends that the State party continue and strengthen its efforts to address such practices.

14. The Committee notes the absence, in the State party's report, of detailed information on the socio-economic situation of minority groups resident in the State party, including Muslims, Roma and persons of Surinamese and African descent. It is, nevertheless, aware of information that a significant number of persons belonging to ethnic minorities experience social marginalisation and discrimination, particularly in the areas of education, health and housing. (art. 5)

The Committee recommends that the State party provide, in its next periodic report, more detailed information, including statistical data disaggregated by age, gender and ethnic origin, on the socio-economic situation of all minority groups, particularly in relation to their access to education, health, employment and housing.

15. The Committee regrets that, despite the State party's information (para. 3 of the State party's report) that reports on the implementation of the Convention in Aruba and the Netherlands Antilles would be provided, none were submitted. The Committee wishes to underscore the importance of providing complete information on the implementation of the Convention in all territories of the State party. (art. 9)

The Committee recommends that the State party provide, in its next periodic report, full information on the implementation of the Convention in Aruba and the Netherlands Antilles and provide technical and financial assistance to the Aruban and Antillean authorities to facilitate the compilation of the reports, if necessary.

16. 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 bearing on 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 (1990).

17. 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.

18. The Committee recommends that the State party continue to cooperate with civil society organisations working in the area of human rights protection, particularly in combating racial discrimination, and consult with them in connection with the preparation of the next periodic report.

19. 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.

20. Noting that the State Party submitted its Core Document in 1996, the Committee encourages the State Party to submit an updated version in accordance with 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/MC/2006/3).

21. 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 4, 8 and 10 above.

22. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 5, 7 and 12 and requests that the State party provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

23. The Committee recommends that the State party submit its nineteenth, twentieth and twenty-first periodic reports, due on 9 January 2013, in a single document, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.
