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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

Iceland

1. The Committee considered the combined nineteenth and twentieth periodic reports of the State party, due on 4 January 2008 and submitted in a single document (CERD/C/ISL/20), at its 1989th and 1990th meetings (CERD/C/SR.1989 and CERD/C/SR.1990) on 25 and 26 February 2010. It adopted the concluding observations below at its 2006th meeting (CERD/C/SR.2006), held on 10 March 2010.

A. Introduction

2. The Committee welcomes the report of the State party, which is in conformity with the Committee's reporting guidelines, as well as the comprehensive written and oral replies of the delegation to the questions raised by the Committee. It also welcomes the State party's timeliness and regularity in submitting its periodic reports. It appreciates the opportunity thus provided to engage in a continuous and constructive dialogue with the State party.

B. Positive aspects

3. The Committee welcomes the adoption in January 2007 of a policy on the integration of immigrants, and the Government's policy declaration of 23 May 2007 which also gives priority to immigrant's issues.

4. The Committee notes with satisfaction that the four-year plan (2007-2011) for the police in the State party puts a special emphasis on staffing the police with people who reflect the multicultural cross-section of society.

5. With regard to its previous concluding observation (CERD/C/ISL/18, para.11), the Committee notes with satisfaction the explanation given by the State party on the

curriculum of border guard and police training, focusing in particular on refugee protection and the conditions in countries of origin.

6. The Committee takes note of the positive work undertaken by the Multicultural and Information Centre, the Intercultural Centre and the Immigrant Council and encourages the State party to continue to support these centres and consult them in elaborating and implementing policies of relevance to the fight against racism and racial discrimination.

7. The Committee welcomes the enactment in December 2005 of the Temporary-Work Agency Act, No.139/2005, guaranteeing, inter alia, that foreign workers enjoy social rights on the same basis as Icelanders and establishing that Icelandic collective agreements also apply to employees hired through a temporary-work agency.

8. The Committee welcomes the approval in March 2009 of the first Governmental Action Plan against trafficking in human beings.

9. The Committee also welcomes the entry into force on 1 July 2008 of three bills addressing children's education from the pre-school level to the end of secondary school, taking account of changes in society and employment, family structures and the growing number of people whose language is not Icelandic, and also the multicultural diversity of school pupils. The Committee notes that the bills include special provisions for children whose mother tongue is not Icelandic.

10. The Committee takes note with satisfaction that since 2005, the resettlement programme under the definition *Women at Risk* in the State party has received refugee women and children within the UNHCR programme.

C. Concerns and recommendations

11. The Committee notes that the Convention still has not been incorporated into the State party's domestic legal order.

The Committee reiterates the importance of incorporating all of the substantive provisions of the Convention into domestic law, with a view to ensuring comprehensive protection against racial discrimination. The Committee is encouraged by the Icelandic Coalition Government's policy document which states that ratified international human rights conventions shall be fully incorporated into the domestic legislation.

12. The Committee notes that although the State party has adopted several legislative acts aimed at ensuring equality of individuals and preventing certain manifestations of racial discrimination, it still lacks a comprehensive anti-discrimination legislation to protect all rights expressly set forth in articles 2 and 5 of the Convention (articles 2 and 5).

The Committee urges the State party to consider adopting a comprehensive anti-discrimination legislation, addressing all manifestations of racism, racial discrimination, xenophobia and related intolerance in all spheres of life, and providing, inter alia, for effective remedies in civil and administrative proceedings.

13. The Committee notes with regret that the State party has not yet established a national human rights institution with a broad mandate to promote and protect human rights, in accordance with the Paris Principles, as contained in the annex to General Assembly resolution 48/134 (articles 2 and 6).

The Committee reiterates its previous recommendation that the State party consider the establishment of an independent national human rights institution, with a broad mandate to promote and protect human rights, in accordance with the Paris

Principles. The Committee also encourages the State party to invest such an institution with the powers as laid down in article 14 (2) of the Convention.

14. The Committee notes that the number of foreign nationals living in the State party has increased substantially over the past few years (from 3.6 % of the total population in 2005 to 7.6 % in 2009). In this light, the Committee notes with concern that nearly 700, mostly young, people had registered in the on-line “Society against Polish people in Iceland” (articles 4 and 7).

While commending the State authorities for having acted decisively to close down the site, the Committee urges the State party, in line with its General Recommendation No. 30 (2004) on discrimination against non-citizens, to continue to maintain its vigilance against acts of racism, including hate speech on the internet, which often erupts in times of economic hardship. It recommends that efforts to prevent and combat prejudices and to promote understanding and tolerance in all spheres of life be continued, aimed particularly at young people and the media. The Committee also recommends that the State party further strengthen the provision of human rights education in schools, including adequate reflection in standard school curricula and training of teachers.

15. The Committee notes that, since 2004, two cases involving allegations of racial discrimination were brought to the attention of the liaison officer between the police and people of foreign origin in Reykjavik, but that in neither case the parties involved wished to take further action. The Committee also notes that since the State party’s last periodic report no complaints were received regarding alleged violations of article 180 of the General Penal Code (denial of access to goods, services or public places). Also, four cases concerning alleged violations of article 233 (a) of the same Code (discriminatory acts) were filed, but all were dismissed owing to insufficient evidence (articles 5 (a, b, f) and 6).

The Committee recommends that measures be taken to raise awareness among people of foreign origin about their rights, inform victims of all remedies available to them, facilitate their access to justice, and train judges, lawyers, and law enforcement personnel accordingly. Recalling its General Recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party verify in all cases the reasons why parties do not wish to take further action. The Committee reiterates its previous recommendation (CERD/C/ISL/18, para.14) that the State party shift the burden of proof to the respondent in proceedings involving denial of access to public places, as also reflected in General Recommendation No.30 (2004) on discrimination against non-citizens.

16. The Committee notes that approximately 40 % of women staying at the women’s shelter in Reykjavik are immigrant women. It notes that in May 2008, the State party amended the immigration law to permit individuals from countries outside the European Economic Area to retain their residence permits upon divorce from Icelandic-born spouses in circumstances where abuse or violence was perpetrated on the foreign spouse or the spouse’s child (article 5 (b)).

The Committee recommends that the State Party study the factors leading to a high proportion of immigrant women staying in the women’s shelter. The Committee further recommends that the State party implement a comprehensive awareness-raising programme on the legislative changes directed at immigrant women throughout the country,

17. The Committee notes with satisfaction that Act No.86/2008, amending the Act on Foreigners No.96/2002, removed the requirement that a foreign spouse or partner in cohabitation or registered partnership of a person lawfully staying in the State party must be

24 years of age or older to obtain a permit to stay as a family member. It notes with concern, however, that art. 13(3) of the Act on Foreigners stipulates that in all cases in which either spouse is aged 24 years or younger, a special investigation shall be made as to whether a sham or forced marriage might be involved (art. 5 (d) (iv)).

The Committee recommends that an investigation should only take place if there is a well-founded reason to believe that marriage or registered partnership has not been entered into willingly by both partners and recalls the importance of art. 5 (d) (iv) of the Convention in this regard.

18. While welcoming the 2008 amendments to the Foreign Nationals' Right to Work Act, No. 97/2002, regulating that temporary work permits are issued in the name of the foreign worker, the Committee is concerned, however, that issuing the permit to be valid for employment with a specific employer will increase the vulnerability of the foreign worker, especially as foreigners make up a disproportionate percentage of the unemployed (art. 5, para. (e) (i)).

The Committee recalls General Recommendation No. 30 (2004) on discrimination against non-citizens and urges the State party to grant foreign workers treatment not less favourable than that which applies to nationals of the State party in respect of working conditions, restrictions and requirements. The Committee recommends that the temporary work permits be issued for a specific type of work/remunerated activity and a specific time, rather than with a specific employer. The Committee further recommends that the right to appeal against decisions by the Directorate of Labour on applications for temporary permits or revocations of such permits also be accorded to the employee alone, rather than requiring the joint signature of both the employer and employee.

19. The Committee is concerned about reports of a disproportionately high drop-out rate of students with immigrant background in upper secondary education (articles 2 (2) and 5 (e)).

The Committee encourages the State party to intensify its efforts to address and ameliorate the situation of students with immigrant background in secondary education in order to increase enrolment and school attendance and to avoid drop-outs.

20. 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).

21. In light of its General Recommendation No. 33 (2009) on follow-up to the Durban 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.

22. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

23. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee recalls General Assembly resolutions 61/148 of 19 December 2006, and 62/243 of 24 December 2008, in which the Assembly strongly urged States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

24. 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.

25. Noting that the State Party submitted its Core Document in 1993, 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 tenth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC//2006/3).

26. 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, 18 and 19 above.

27. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11 and 12 above, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

28. The Committee recommends that the State party submit its twenty-first, twenty-second and twenty-third periodic reports in a single document, due on 4 January 2013, 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.