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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined tenth and eleventh periodic reports of Estonia***

1. The Committee considered the combined tenth and eleventh periodic reports of Estonia (CERD/C/EST/10-11), submitted in one document, at its 2311th and 2312th meetings (CERD/C/SR.2311 and CERD/C/SR.2312), held on 21 and 22 August 2014. At its 2321st and 2322nd meetings, held on 28 and 29 August 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee commends the timely submission of the combined tenth and eleventh periodic reports by the State party. It welcomes the presence of a large multi-sectoral delegation and expresses its appreciation for updated information that the delegation provided verbally to complement the report, taking into account the list of themes identified by the Rapporteur. It also appreciates the frank and constructive dialogue with the State party.

B. Positive aspects

3. The Committee welcomes the efforts of the State party to amend its policies, programmes and administrative measures to give effect to the Convention, including:

(a) Adoption of the State Integration Programme 2014-2020, which includes social and economic integration;

(b) Launching of a two-year targeted project by the Ministry of Education and Science for increasing the quality of educational and linguistic counselling for pupils of Roma and immigrant background (foreseen for autumn 2014).

4. The Committee also welcomes the amendment of legislation aimed at addressing discrimination such as:

(a) Amendment to the Citizenship Act (1 August 2012), which simplifies naturalization procedures for persons with disabilities and persons with restricted active legal capacity;

* Adopted by the Committee at its eighty-fifth session (11-29 August 2014).

(b) Amendment to the Act on Granting International Protection to Aliens, on 1 October 2010.

5. The Committee further welcomes that, since the consideration of the eighth and ninth periodic reports, the State party ratified or acceded to the following international instruments:

(a) The Optional Protocol to the Convention on the Rights of Persons with Disabilities, on 30 May 2012;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 12 February 2014.

C. Concerns and recommendations

National human rights institution

6. The Committee, while commending the work of the Chancellor of Justice and of the Gender Equality and Equal Treatment Commissioner, regrets that the State party has not yet decided to establish a national human rights institution (CERD/C/EST/CO/8-9, para. 10) in accordance with the Paris Principles relating to the Status of National Institutions. (art. 2)

Recalling general recommendation No. 17 (1994) on the establishment of national institutions to facilitate implementation of the Convention, the Committee reiterates its recommendation that the State party continue to consult with civil society with a view to considering the establishment of an independent national human rights institution in line with the Paris Principles (General Assembly resolution 48/134).

Prohibition of racist organizations and combating racist hate speech

7. While noting the statement by the delegation of the State party regarding a new draft law on the criminalization of hate crimes, the Committee is concerned at the absence of amendments to the Penal Code that prohibits racist organizations, the dissemination of ideas based on racial superiority or racial hatred and that makes racially motivated hate speech and incitement to hatred a criminal offence punishable by law in the circumstances contemplated by article 4 of the Convention. In addition, the Committee is concerned at leniency of the punishment (a fine of 100 euros) imposed in 2011 under Section 151 (1) of the Penal Code for commentaries posted on the internet whose contents were found to have incited hatred and violence (art. 4, 5 and 7)

Recalling general recommendation No. 35 (2013) on combating racist hate speech, the Committee reiterates its recommendations that the State party:

(a) **Amend its criminal legislation, including by removing the elements of conditionality from relevant articles of the Penal Code, with a view to bringing it in line with article 4 of the Convention by prohibiting organizations which promote and incite racial discrimination, making racially motivated hate speech and incitement to hatred, including in political and public discourse criminal offences punishable by law in the circumstances indicated in General Recommendation No. 35 of the Committee and ensure that punishment for such offences corresponds to the gravity of the crimes;**

(b) **Ratify the Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems and in the media.**

Racial motivation as an aggravating circumstance in criminal law

8. The Committee reiterates its concern that racial motivation does not in general constitute an aggravating circumstance in proceedings under Estonian criminal law. (arts. 4 and 6)

The Committee reiterates its recommendation that the Penal Code be amended to include a specific provision ensuring that the motive of hatred is taken into account as an aggravating circumstance in proceedings under the criminal law, in line with article 4 of the Convention.

Integration Strategy

9. The Committee is concerned by the continued overemphasis on language in the Integration Strategy, including the initiative by the Chancellor of Justice on 2 July 2012 to bring the Private Schools Act into conformity with everyone's constitutional right to being taught in Estonian, which has resulted in studies at private upper secondary schools where the language of instruction is Russian to be conducted 60 per cent in Estonian, with the introduction of compulsory instruction in Estonian for five subjects. (arts. 4, 5 and 6)

The Committee recommends that the State party:

(a) **Continue removing punitive elements in its approach to the promotion of the official language and establish an effective mechanism to monitor the work of the Language Inspectorate;**

(b) **Allocate sufficient resources in order to generalize further the provision of free-of-charge language courses with effective methodologies to fulfil the requirements for Estonian language proficiency for persons belonging to minorities and persons with undetermined citizenship, while protecting the right to receive instruction in minority languages;**

(c) **Review its legislation which restricts the use of minority language in public services only to counties where persons belonging to minorities who are citizens of Estonia make up half of the population;**

(d) **Address the minorities' need for self-identification by facilitating, inter alia, the use of patronyms, through appropriate administrative measures;**

(e) **Provide the Committee with a full assessment of the effects of the Integration Strategy in its next periodic report.**

Discrimination based on language proficiency

10. The Committee is concerned that, while the Equal Treatment Act prohibits discrimination against an employee or potential employee based on criteria such as nationality (ethnic origin), different treatment due to Estonian language proficiency is not considered discrimination if such treatment is permitted by the Public Service Act or the Language Act. While noting the June 2014 amendment to the Language Act that redirected the power of the Language Inspectorate as of 1 January 2015 to impose monetary fines on employees with insufficient proficiency in the Estonian language to the employers, it is also concerned at the discrepancies between the employment and income levels between the Estonian and non-Estonian population, including as a result of language proficiency. (arts. 1, 4, 5 and 6)

The Committee recommends that the State party:

(a) **Intensify efforts to address the persistent disadvantages faced by minority groups with regard to rates of employment and remuneration based on**

language proficiency, including through enhanced professional language training and special measures in the field of employment in order to reduce the income gap;

(b) Ensure that language requirements in relation to employment are based on reasonable and objective criteria and are linked to the needs for the performance of each individual job;

(c) Continue to be mindful of indirect discrimination effects of public policies on vulnerable groups.

Persons with undetermined citizenship

11. While noting the reduction in the number of persons with undetermined citizenship during the period under review, the Committee remains concerned at the persistently high number of persons with undetermined citizenship. It is also concerned that, according to the 2011 census, the national origin of 19,344 persons in the State party is unknown. (art. 5)

Bearing in mind its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:

(a) Intensify efforts to reduce the number of persons with undetermined citizenship, including by shortening the length of the procedure for the acquisition of citizenship;

(b) Lessen the language requirements for naturalization, in particular for older persons;

(c) Ease further the naturalization requirements for persons under 15 years of age;

(d) Raise awareness about statelessness among stakeholders and introduce mechanisms to help national and local institutions to effectively identify stateless persons;

(e) Consider ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

Prison population

12. The Committee is concerned at the high number of non-Estonians among the prison population, which includes a significant ratio of persons of undetermined citizenship. It is also concerned that prisons and correctional facilities refuse to accept and translate complaints from prisoners that are not written in the official language, which may limit the opportunities of inmates of minority origin to file oral and written complaints. (arts. 2, 5 and 6)

The Committee recommends that the State party ensure that there is no discrimination against prisoners on the basis of their lack of proficiency in the Estonian language and that prisoners are not penalized with regard to administrative and disciplinary matters because they do not have a sufficient understanding of the Estonian language.

Education of Roma children

13. While taking note of the project to increase the quality of education for Roma scheduled to start in the fall of 2014, the Committee is concerned that there are only 32 students out of a Roma population of some 500 of whom a disproportionate number seems to have been placed in special schools (arts. 2 and 5).

Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Ensure that all Roma children have access to quality education and are integrated in mainstream schools;

(b) Assess the number of Roma children pursuing education at the secondary level and address the problem of Roma children dropping out of school.

Participation of minorities in public and political life

14. The Committee is concerned at the low level of participation of minorities in public and political life of the State party, including the Parliament and local institutions. (art. 5).

In view of the fact that the civil and political integration of minorities is stated as an objective of the Estonian Integration Strategy, the Committee reiterates its recommendation that the State party redouble its efforts to ensure greater participation by members of minorities in public life, including in Parliament, and take effective steps to ensure that they participate in the administration at all levels.

The Committee also recommends that the Estonian authorities strengthen their cooperation with the Council of Ethnic Minorities.

Complaints relating to racial discrimination

15. The Committee is concerned at the absence of complaints concerning officials of the Police and Border Guard Board and of the Security Police Board in relation to racism, racial discrimination, xenophobia and similar forms of hatred and at the low number of inquiries into complaints concerning discrimination on grounds of ethnic origin and race. (arts. 5, 6 and 7).

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 reiterates its recommendations that the State party:

(a) **Verify whether the small number of complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, limited access to available mechanisms, lack of confidence in the police or judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination;**

(b) **Review remedies available to victims to seek redress to ensure that they are effective;**

(c) **Consider extending the use of effective conciliation in dealing with racial discrimination cases, when appropriate, amend the Chancellor of Justice Act to compel participation by both sides in the dispute and provide information to the Committee on the number and outcome of cases of conciliation in the next periodic report;**

(d) **Continue to raise awareness of the Convention and of Penal Code provisions relating to racial discrimination.**

Data concerning cases of racial discrimination

16. The Committee is concerned at the absence of data on discrimination on grounds of race and ethnicity and at the absence of registration of crimes under Sections 151-153 of the Penal Code during the period under review (art. 5, 6 and 7).

Recalling its revised reporting guidelines (CERD/C/2007/1, paras. 10 and 12), the Committee recommends that the State party diversify its data collection activities, on

the basis of anonymity and self-identification of persons and groups, to provide an adequate empirical basis for policies to enhance the equal enjoyment by all of the rights enshrined in the Convention and recalls that reliable, detailed information is necessary for the monitoring and evaluation of policies in favour of minorities and for assessing the implementation of the Convention.

The Committee requests that the State party provide in its next report updated information and statistics on cases of and on the number of complaints about acts of racial discrimination as well as on relevant decisions in penal, civil or administrative court proceedings and by State human rights institutions, including on any restitution or other remedies provided to victims of such acts.

IV. Other recommendations

Ratification of other treaties

17. 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 with provisions that 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 (1990); the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights (2008) and to the Convention on the Elimination of Discrimination against Women (1999); the International Convention for the Protection of All Persons from Enforced Disappearance (2006); the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education (1960); the Convention relating to the Status of Stateless Persons (1954); the Convention on the Reduction of Statelessness (1961) and the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003).

Follow-up to the Durban Declaration and Programme of Action

18. In the 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.

Consultations with organizations of civil society

19. The Committee recommends that the State party expand its dialogue with and consult with a broader scope of organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, with a view to reflecting the diversity of related issues in the State party in connection with the preparation of the next periodic report and the follow-up to the present concluding observations.

Amendments to article 8, paragraph 6, of the Convention

20. The Committee reiterates its recommendation contained in the previous concluding observations that the State party ratify the amendment 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.

Dissemination

21. 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 those reports be similarly publicized in the official and other commonly used languages, including Russian, as appropriate.

Core document

22. Noting that the State party submitted its core document in 2001, 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).

Follow-up to concluding observations

23. 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 concluding observations, on its follow-up to the recommendations contained in paragraphs 7, 8 and 13 above.

Paragraphs of particular importance

24. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 9, 11 and 16 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

Preparation of the next periodic report

25. The Committee recommends that the State party submit its twelfth and thirteenth periodic reports, in a single document, by 29 August 2018, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the 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 to 80 pages for the common core document (see HRI/GEN.2/Rev.6, chap. I, para. 19).
