



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the 4<sup>th</sup> session  
of the Human Rights Council

### **Reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>1</sup>**

#### **Name of Mandate Holder**

Doudou Diène

#### **Mandate**

The mandate first created during the 49<sup>th</sup> session of the Commission on Human Rights with *Resolution 1993/20*. Then by its *Resolution 1994/64* of 9 February 1994, the Commission made the mandate more explicit and precise by requesting the Special Rapporteur:

- To examine in accordance with his mandate incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, Negrophobia, anti-Semitism and related intolerance, as well as governmental measures to overcome them;
- To continue his exchange of views with the relevant mechanisms and treaty bodies within the United Nations system in order to enhance their effectiveness and mutual cooperation further;
- To make the fullest use of all additional sources of information, including country visits and the evaluation of mass media, and to elicit the responses of governments with regard to allegations.

#### **Activities**

- Annual Report
- Communications to and from governments
- Mission to Switzerland from 9 to 13 January 2006
- Mission to the Russian Federation from 12 to 17 June 2006
- Mission to Italy from 9 to 13 October 2006

#### **Annual Report<sup>2</sup>**

#### **Scope**

The report examines current progress and regress related to his mandate, including follow-up to his previous missions and cooperation with other actors in combating contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

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<sup>1</sup> Summaries prepared by Jumi Rahayu, Intern, ISHR, edited by Gareth Sweeney, Information Program, ISHR.

<sup>2</sup> A/HRC/4/19, 12 January 2007. Available at [http://ohchr.org/english/bodies/hrcouncil/4session/docs/A-HRC-4-19\\_E.doc](http://ohchr.org/english/bodies/hrcouncil/4session/docs/A-HRC-4-19_E.doc)

## Key Conclusions

The Special Rapporteur noted the resurgence of racism, racial discrimination, xenophobia and their violent manifestations in worrying trends:

- The growing “**democratic legitimization**” of **racism and xenophobia** by the spread of political platforms and by their implementation through alliances with Governments;
- The **exclusively security-based approach to immigration, asylum and the status of foreigners and national minorities**, particularly based on Islamophobia. Discriminatory measures are widely used in points of entry to a country, such as targeting people because of their ethnic, cultural or religious appearance, systematic and humiliating searches, and refoulement;
- The general increase in the **defamation of religion, racial and religious hatred**. The rejection of diversity manifested in intolerance and repression of symbols and expression that reveal the specific identity of ethnic, cultural or religious communities. It is based on the rhetoric of “defence of national identity and national values” and legitimised by the concept of integration-assimilation. The legalisation of the rejection of diversity is reflected by a hierarchical and political interpretation of human rights and fundamental freedoms, which resulted in the legitimisation of incitement to racial and religious hatred under the pretext of freedom of expression
- The growing expression of **elitist racism**, characterised by the intellectual legitimisation of racism and xenophobia in literature, university, research, cinema, television, internet, also by statements of prominent intellectuals, artists, media personalities, and politicians.
- **Racism in sport**, particularly football. Although there have been efforts from relevant organisations such as FIFA to fight racism, cases of violence continues to be a serious phenomenon.

The Special Rapporteur welcomes positive **follow-up to his previous visits**:

- **Japan** has emphasised education as a key to combat racial discrimination and xenophobia. It has also started a dialogue with China and the Republic of Korea to develop a research programme to settle the historical dispute which was the root cause of discrimination against these communities in Japan, and establish "a general history of the region";
- **Brazil** has played a catalytic role in its regional by organising regional conference and drafting a preliminary draft of the Inter-American convention against racisms of discrimination and related intolerance;
- **Canada** has shown commitment to the construction of a democratic and egalitarian multiculturalism by appointing Michaëlle Jean (of Haitian origin) as Governor General of Canada, who has become the third woman and first black person to occupy the post.

## Key Recommendations

**The Human Rights Council** should encourage its member States to:

- Pay attention to the nature of religious defamation, anti-Semitism, Christianophobia and Islamophobia by strengthening the role of inter-religious and intercultural dialogue, promoting reciprocal understanding and joint action;
- Adopt national legislation against racism, racial discrimination and xenophobia pursuant to Article 4 Paragraphs (a) and (b) of *International Convention on the Elimination of All Forms of Racial Discrimination*. It should also renew their commitment to the implementation of the Durban Declaration and Programme of Action;
- Reject the use of racism, xenophobia and intolerance in politics and electoral campaigns;
- Adopt an approach to the issue of immigration, asylum, and situations of foreigners and national minorities that is based on international law and instruments;

- Wage a systematic campaign against incitement to racial and religious hatred by maintaining a balance between the defence of secularism and respect for freedom of religion, and by respecting the complementarities of freedoms contained in the *International Covenant on Civil and Political Rights*;
- Develop efforts to combat racism involving economic, social and political measures and relate to the question of identity.

**The Working Group on the review of mandates of the special procedures** should consider including in the Council's programme of work an Item on follow-up visits, based on the reports of governments and civil society organisations of the countries visited.

**The Office of the High Commissioner of Human Rights (OHCHR)** should establish a centre for monitoring racist phenomena.

### **Communications to and from governments<sup>3</sup>**

The Special Rapporteur received positive responses to his request to conduct visits from the Governments of Estonia, Latvia, Lithuania, and Mauritania. The Governments of India, Pakistan, Nepal, and the Dominican Republic have not yet responded to the repeated requests.

The Special Rapporteur recommended that the Human Rights Council should impose time limits on States' responses to requests for special procedure visits.

### **Mission to Switzerland<sup>4</sup>**

#### **Scope**

The Special Rapporteur visited Switzerland from 9 to 13 January 2006 in order to assess the situation of racism, racial discrimination and xenophobia as well as policies and measures adopted by the Government. He visited three of the country's linguistic regions, including Bern, Basel, Ticino and Neuchâtel. He held consultations with federal and cantonal authorities, foreign communities, national, ethnic, cultural and religious minorities, NGOs, civil society groups, political parties, employers, trade unions, and the media. He compared information gathered from those parties in drafting this report.

#### **Summary and Key Conclusions**

- There is a dynamic of racism and xenophobia in Switzerland, such as in **employment and housing**. Most foreign communities, especially Blacks, Jews, asylum-seekers and persons of Muslim culture experience **racial profiling, discriminatory practices and fear of certain institutions**, particularly the police and immigration office. There is also **a tendency to criminalise** foreigners, asylum-seekers, and refugees in Switzerland. This condition is caused by **cultural resistance** within Swiss society to multiculturalisation based on the defence of **national identity** and the **threat of foreign presence**, and growing prevalence of racist and xenophobic stances in **political programmes** and discourses;
- There is **no coherent political and legal strategy against racism**. The Swiss Confederation has adopted anti discriminatory norms but on the other hand constantly reinforces its legislative

<sup>3</sup> A/HRC/4/19/Add.1

<sup>4</sup> A/HRC/4/19/Add.2, 30 January 2007. Available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A.HRC.4.19.Add.2.pdf>

restrictions against foreigners, refugees, and asylum seekers, including the three cycle migration policy which discriminates against people from countries other than Europe, the USA, and Canada;

- The Special Rapporteur also showed his concern on the **lack of reliable data and statistics** concerning manifestations and expression of racism;
- The Special Rapporteur welcomed **the establishment of specialised bodies and commissions** for racial discrimination issues in Switzerland, which are the Federal Commission for Foreigners, the Federal Commission against Racism and the Service for Combating Racism, as well as the initiatives undertaken by certain cantonal police offices to have an **exchange of views** with Black communities to overcome prejudices and misunderstanding.

### **Key Recommendations**

**The Government should:**

- **Recognise the dynamic** of racism and xenophobia, and express its political will to combat those phenomena and **promote a democratic, egalitarian, and interactive multiculturalism**;
- Establish a **national plan of action** against racism and xenophobia, including a **national legislation and a cultural and ethical strategy** for the construction of a multicultural society;
- Strengthen the Federal Commission for Foreigners, the Federal Commission against Racism and the Service for Combating Racism. The Government should also establish **appropriate mechanisms** to protect individuals against racism by various bodies and administration at the federal, cantonal and communal levels. It should also establish a **federal commission to promote human rights**;
- Introduce in Swiss legislation the **legal standing right of associations and NGOs** to appear in court and act on behalf of victims;
- **Withdraw the reservation** to Article 2, Paragraph 1 (a) and Article 4 of the ICERD.

**Civil society organisations** should use the UN mechanisms available to them and transmit relevant information concerning possible human rights violation related to racial discrimination.

### **Mission to the Russian Federation<sup>5</sup>**

#### **Scope**

The Special Rapporteur visited the Russian Federation from 12 to 17 June 2006 to analyse the situation of racism, racial discrimination and xenophobia particularly in the light of incidents reported by human rights organisations, national and international press.

### **Mission to Italy<sup>6</sup>**

#### **Scope**

The Special Rapporteur visited Italy from 9 to 13 October 2006 to assess the situation of racism, racial discrimination and xenophobia particularly in the light of the current legislative policy inherited from the platforms of the previous Government. He travelled to Rome (including Roma and Sinti communities), Lampedusa, Siracusa, Ragusa, and Palermo. He met with the Ministers and other high-public officials of the Ministries of Education, Interior, Justice, Rights and Equal

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<sup>5</sup> A/HRC/4/19/Add.3

<sup>6</sup> A/HRC/4/19/Add.4, 15 February 2007. Available at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A-HRC-4-19-Add-4.doc>

Opportunities and Social Solidarity, the Vice-President of the Supreme Court, members of various political parties represented on the Parliamentary Commission on Foreign and Constitutional Affairs and of local government, including the police, and the Vice-President of the Italian Federation of Football. Furthermore, he met with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and a wide range of national and international non-governmental organisations (NGOs) active in the combat against racism and xenophobia. He met with representatives of the Jewish and Muslim religious communities as well as journalists and trade unionists, and visited the reception centres at Lampedusa and Cassibile and the Temporary Stay and Assistance Centres (Centri di Permanenza Temporanea e Assistenza, CPTA) of Ragusa, where he had the opportunity to meet with migrants and asylum-seekers of African, Eastern European, Asian and South American origin.

### **Summary and Key Conclusions**

- Italy is facing a disturbing trend of xenophobia and manifestations of racism, in the form of **institutional** and **socio-economic marginalisation** and **cultural** and **religious discrimination** primarily affecting the Sinti and Roma community, immigrants and asylum-seekers primarily of African origin, but also from Eastern Europe, and the Muslim community;
- The Special Rapporteur noted with concern the **slavery-like working conditions of immigrants** in the agricultural sector and the situation of migrant women, who are vulnerable to abusive working conditions and are highly represented in the **prostitution** sector. He also regrets **the security approach** enshrined in the immigration legislation that has led to the criminalisation of immigrants, and the lack of a bilateral agreement with the Muslim denomination;
- The Special Rapporteur welcomed the different approach towards immigration and the challenges of multiculturalism articulated by the new Government, and the Government's firm commitment to combat racism and xenophobia. In this context, the Special Rapporteur notes with interest the new draft Law on Citizenship submitted to Parliament, the announced intended reforms in the field of immigration, and the proposed draft bill to improve the protection of immigrants subject to abuse at work regardless of their legal condition.

### **Key Recommendations**

The Government should:

- Express its **political will and determination to combat racial discrimination and xenophobia** at the highest political level. It should also promote **reciprocal knowledge and interaction** between the different communities, and link the combat against racism with the long-term construction of a genuine, democratic and interactive multiculturalism;
- Adopt **a legal strategy** which in the short term shall aim at the implementation of the existing civil and criminal anti-discrimination law, adopt the citizenship law without relating access to citizenship to an income level, and redefine the National Plan of Action in Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in consultation with all relevant actors, including civil society. Particularly critical will be the reform of the so-called Bossi-Fini Law regulating immigration and, partially, asylum; the adoption of a comprehensive asylum law and policy;
- **Recognise the Roma and Sinti community as a national minority** whose culture and language are to be protected;
- **Racism in sport:** the Government should implement the FIFA guidelines regarding violence in football and undertake a review of the regulations of the various federations to harmonise them with the provisions of article 2 of LD 286/98 in order to eliminate discrimination against legally resident non-EU children in sports;

- Consider **ratifying** the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* and harmonise its national legislation accordingly;
- Consider launching, with the participation of all media, a process of reflection on the role and **responsibility of the media** to combat racism, xenophobia and related intolerance and to foster the adoption of a code of conduct in that regard;
- Conclude bilateral agreements (*intese*) with those Islamic denominational organisations that have applied and fulfilled the requirements in accordance with the law;
- The long-term construction of an Italian multicultural identity should be reflected in Italian institutions and guide government policies and programmes, in particular in education, culture, and information.