



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Sixty-fifth session
2-20 August 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

KAZAKHSTAN

1. The Committee considered the initial to third periodic reports of Kazakhstan, which were due on 25 September 1999, 2001 and 2003, respectively, submitted as one document (CERD/C/439/Add.2), at its 1662nd and 1663rd meetings (CERD/C/SR.1662 and 1663), held on 13 and 16 August 2004. At its 1670th meeting (CERD/C/SR.1670), held on 19 August 2004, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report submitted by the State party and the additional information provided by the delegation. The Committee also appreciates the presence of a high-ranking delegation representing the State organs responsible for the elimination of racial discrimination and the opportunity thus afforded to enter into a dialogue with the State party in a constructive manner.

3. Noting that the initial report was submitted five years after the ratification of the Convention, the Committee invites the State party to take due account, in the submission of its future reports, of the timetable provided for by the Committee.

B. Positive aspects

4. The Committee notes that the State party is a multi-ethnic country, with numerous very different and significant communities representing more than 40 per cent of the total population, and appreciates the efforts made by the State party to provide information relating to the ethnic composition of the population as well as other statistical data.

5. The Committee appreciates the efforts of the State party to establish and improve human rights organs.

6. The Committee notes with satisfaction the information provided on the economic improvement of the country, especially the reduction of unemployment.

7. The Committee also notes with satisfaction that the State party has ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol as well as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of ILO.

C. Concerns and recommendations

8. The Committee notes that there is no specific legislation in the State party regarding racial discrimination.

The Committee is of the view that specific domestic law regarding racial discrimination, implementing the provisions of the Convention, as well as a legal definition of racial discrimination that complies with the provisions of the Convention, would be a useful tool to combat racial discrimination in the State party.

9. While taking note of the constitutional and other provisions prohibiting propaganda regarding racial or ethnic superiority, the Committee is concerned about the insufficiency of specific penal provisions concerning article 4 (a) of the Convention in the domestic legislation of the State party.

The Committee recommends that the State party adopt legislation, in the light of the Committee's general recommendation XV, to ensure full and adequate implementation of article 4 (a) of the Convention.

10. While acknowledging that since independence the State party has opened its borders, the Committee also notes that there is a high level of emigration amongst particular ethnic or national groups.

The Committee recommends that the State party include information in its next periodic report on emigration, including information on the causes and consequences of this ongoing phenomenon and its impact on particular ethnic or national groups.

11. While welcoming the information provided on several minorities in the State party, the Committee regrets the lack of information on the situation of certain minority groups, in particular the Roma, and their enjoyment of all human rights.

The Committee recommends that the State party include information in its next periodic report on the situation of all minority groups, in particular the Roma, and in this connection draws the attention of the State party to its general recommendation XXVII on discrimination against Roma.

12. The Committee notes the absence of legislation regarding the status of languages and that little information has been provided by the State party on the participation of minorities in the elaboration of cultural and educational policies. The Committee is concerned that minority languages are not used in the educational system to an extent commensurate to the proportion of the different ethnic communities represented in the student body.

The Committee recommends that the State party adopt legislation on the status of languages and that it include detailed information in its next periodic report regarding the use of ethnic minority languages in education

and how ethnic minorities participate in the elaboration of cultural and educational policies.

13. The Committee notes that the ethnic representation in State institutions does not correspond to the proportion of the different ethnic communities represented in the population of the State party.

The Committee recommends that the State party include information in its next periodic report regarding the ethnic representation in State institutions and adopt practical measures to ensure that ethnic minorities have equal access to those institutions.

14. The Committee regrets the lack of information in the State party's report on the fundamental rights of non-citizens temporarily or permanently settled in Kazakhstan, including migrant workers.

Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party include information in its next periodic report on non-citizens and on the enjoyment of their rights. Furthermore, it encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

15. The Committee is concerned that some refugees have been forcibly returned to their countries when there were substantial grounds for believing that they might suffer serious human rights violations.

The Committee recommends to the State party that it include in its next periodic report information on the situation of refugees, the legal basis for their deportation, and the legal protection provided, including their rights to legal assistance and judicial appeal against deportation orders. It also urges the State party to ensure, in accordance with article 5 (b) of the Convention, that no refugees will be forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations.

16. While acknowledging that the State party has developed a governmental work plan to combat human trafficking, the Committee notes with concern that there is ongoing trafficking of women and children, particularly affecting non-citizens and ethnic minorities.

The Committee recommends that the State party include detailed information in its next periodic report on human trafficking and that it reinforce its ongoing efforts to prevent and combat trafficking and provide support and assistance to victims. Furthermore, the Committee urges the State party to make determined efforts to prosecute the perpetrators and underlines the paramount importance of prompt and impartial investigations.

17. While acknowledging the efforts made by the State party to confront the scourge of terrorism with a national counter-terrorism programme, the Committee is concerned about the lack of information on the impact of this programme on the principle of non-discrimination.

The Committee draws the State party's attention to its statement of 8 March 2002 in which it stressed the obligation of States to ensure that measures taken in the struggle against terrorism did not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin¹ and requests the State party to include in its next periodic report further information on its counter-terrorism programme.

18. The Committee notes with concern that, with the exception of the judges of the Supreme Court, all the judges are appointed by the President, who also determines the organization of the work of the courts.

The Committee recommends that the State party strengthen the independence of the judiciary and other State organs in order to provide everyone with effective protection and remedies against any acts of violation of the Convention and that it include detailed information in its next periodic report on the measures taken to that end.

19. The Committee notes the absence of court cases regarding racial discrimination in the State party and that only two complaints of racial discrimination were brought before the Commission on Human Rights in 2000 and 2001.

The Committee recommends that the State party ensure that the paucity of complaints is not the result of victims' lack of awareness of their rights or limited financial means, or their lack of confidence in the police and the judicial authorities, or to the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges the State party to ensure that appropriate provisions are available in the national legislation regarding effective protection and remedies against violation of the Convention and to disseminate as widely as possible among the public information on the legal remedies available.

20. While noting the existence of the Commission on Human Rights, which has a primarily consultative function, as well as the recent nomination of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding their independence and effectiveness.

The Committee recommends that in its next periodic report the State party provide additional information on the role and functioning of the Commission on Human Rights and the Ombudsman. Furthermore, the Committee encourages the State party to consider establishing an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

21. The Committee notes the insufficient information on efforts undertaken by the State party to involve non-governmental organizations in the preparation of the periodic report and expresses concern over the restrictions placed by the authorities on civil society organizations, including organizations working to combat racial discrimination.

The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that the State party remove all legal, practical and administrative obstacles to the free functioning of civil society organizations that contribute to promoting human rights and combating racial discrimination. Furthermore, the Committee recommends that they be consulted during the preparation of the next periodic report.

22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level.

23. The Committee also recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

24. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider so doing.

25. The Committee strongly 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. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties 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. A similar appeal was reiterated by the Assembly in resolution 58/160.

26. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report on 25 September 2007, and that it address in that report all points raised in the present concluding observations.
