



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
15 September 2010

Original: English

Committee on the Elimination of Racial Discrimination

Seventy-seventh session

2 – 27 August 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

Uzbekistan

1. The Committee considered the combined sixth and seventh periodic reports of Uzbekistan (CERD/C/UZB/6-7), submitted in one document, at its 2018th and 2019th meetings (CERD/C/SR.2018 and 2019), held on 5 and 6 August 2010. At its 2040th and 2041st meetings (CERD/C/SR.2040 and 2041), held on 20 and 23 August 2010, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the comprehensive report submitted in due time by the State party, which was drafted in accordance with the guidelines for the preparation of reports. It also expresses appreciation for the frank and sincere dialogue held with the high-level delegation and the efforts made to provide comprehensive responses to many issues raised in the list of themes and by Committee members during the dialogue.

B. Positive aspects

3. The Committee welcomes the ratification by the State party of several international instruments related to human rights protection and in particular the accession of the State party to the Second Optional Protocol to the International Covenant on Civil and Political Rights in December 2008.

4. The Committee welcomes the legislative measures taken to improve the promotion and protection of human rights in the State party since the examination of the fourth and fifth periodic reports, in particular the abolition of the death penalty and the introduction of judicial control over decisions to place individuals in custody (habeas corpus) in January 2008 and other judicial and legal reforms.

5. The Committee notes with satisfaction the information that the State party provided up to 100,000 refugees from Kyrgyzstan with access to its territory following the recent outbreak of violence and also notes the active cooperation of the Government in ensuring the provision of humanitarian assistance to those in need.

6. The Committee welcomes the establishment of the National Plan of Action on Fulfillment of the Recommendations of the Committee on the Elimination of Racial Discrimination for the past concluding observations and the information provided by the delegation that a similar plan would be adopted in respect to the present concluding observations. The Committee encourages the State party to submit comprehensive information on the implementation of the above Plan.

C. Concerns and recommendations

7. The Committee reiterates its concern about the absence of a definition of racial discrimination in domestic law that is in full compliance with the Convention definition, even if the provisions of the Convention may be directly invoked before national courts, and also its concern for sufficient clarity on the relationship between the Convention and domestic law.

The Committee is of the view that the elaboration of specific legislation on racial discrimination, including all elements provided in article 1 of the Convention, is an indispensable tool for effectively combating racial discrimination and recommends that the State party include such a definition in its legislation covering all fields of public and private life.

8. The Committee notes that insufficient information regarding the concrete outcomes of the measures taken towards the implementation of its previous concluding observations (CERD/C/UZB/CO/5) was provided by the State Party. It also notes that many of the concerns previously addressed to it by the Committee persist and have not resulted in structural change.

The State Party is encouraged to comply with all recommendations and decisions addressed to it by the Committee and to take all necessary steps to ensure the effective implementation of the Convention.

9. The Committee notes that the last census of the population in the State party dates back to 1989, which may affect the accuracy of the data used in the report. The Committee is concerned that, despite the fact that some demographic data has been provided, the disaggregated demographic data on the implementation of the Convention is insufficient. There are no economic and social indicators, disaggregated by ethnicity and gender, which makes it difficult to identify and tackle discrimination.

Recalling the importance of gathering accurate and up-to-date data on the ethnic composition of the population, the Committee requests that the State party provide detailed and updated disaggregated data on the ethnic and gender composition of its population in its next report. In this regard, it draws the State party's attention to paragraphs 10 to 12 of its guidelines on the form and content of reports (CERD/C/2007/1).

10. The Committee points out that insufficient information was provided on the effective level of participation of members of national and ethnic minorities in State institutions and other sectors and on the number of people, including women of non-Uzbek ethnic origin occupying positions of responsibility within the State party's judiciary, administrative and political institutions and private sectors. The Committee notes that racial

discrimination is often experienced by women who are also members of ethnic minorities and draws attention to the lack of demographic data reflecting the intersection of gender and race, and the lack of information on measures taken to protect and ensure the fulfilment of the rights of minority women (art. 5 (c)).

The State party should provide further information on these issues, including disaggregated statistical data by sex, ethnic origin, occupational sector, and functions assumed, including also information on selection and recruitment procedures.

11. The Committee is concerned about the substantial number of stateless persons in the State party, the complicated procedures regulating the acquisition of Uzbek citizenship and the limited other measures taken to avoid statelessness. The Committee is concerned in particular about the conditioning of the acquisition of Uzbek citizenship on the renunciation of any other citizenship, which may lead to statelessness. The Committee is also concerned about the situation of children of stateless parents (art. 5 (b)).

The Committee encourages the State party to amend its national legislation and remove administrative barriers to the acquisition of Uzbek citizenship by stateless persons, including the children of stateless persons in its territory, in an effort to prevent statelessness, as well as to consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

12. The Committee is concerned about the absence of specific legislation on refugees, in particular the lack of legal safeguards against forced removal of individuals to a country where their life/health may be at risk. The Committee notes the information submitted by the State party on the implementation of bilateral extradition agreements and regrets that no information was submitted on the domestic legal mechanisms ensuring the implementation of the *non-refoulement* principle. The Committee welcomes the statement made by the delegation that the issue of ratification of the 1951 Convention relating to the Status of Refugees and its Optional Protocol (1967) is currently under examination.

The Committee reiterates its recommendations for the State party to elaborate a legislative framework for the protection of refugees in accordance with international standards, to pursue its cooperation with the Office of the United Nations High Commissioner for Refugees and to protect persons who have sought refuge in Uzbekistan. The Committee also recommends that the State party, in accordance with article 5 (b) of the Convention, ensure that no person will be forcibly returned to a country where there are substantial grounds for believing that he/she will face persecution and that his/her life or physical integrity may be put at risk. In this regard, the State party is invited to establish a mechanism to permit review of decisions to remove aliens, with a suspensive effect on removals, pending examination of the review. The Committee further encourages the State party to ratify the 1951 Convention relating to the Status of Refugees and its Optional Protocol (1967).

13. The Committee takes note of the continuing existence of a compulsory residence registration system (*propiska*) in the State party. While acknowledging that it is maintained for the purposes of address registration, retention of this system may affect de facto the enjoyment of a number of rights and freedoms (art. 5, para. d (i) and (ii)) for foreigners residing in the country and persons from groups vulnerable to racial discrimination.

The State party is invited to present, in its next periodic report, statistical data on the number of compulsory residence registration applications (disaggregated by region/ethnic origin of applicants) and their outcome.

14. The Committee notes the information provided by the State party that there is no information about complaints or court decisions concerning acts of racial discrimination during the reporting period, nor direct evidence of such complaints regarding racial discrimination received by the Ombudsperson, and is concerned that this may be due to a lack of awareness of victims' rights or a lack of effectiveness of these procedures (arts. 2, para. 1 (d) and 6).

The Committee, considering that no country is free from racial discrimination, urges the State party to consider why there have been very few complaints of racial discrimination. The Committee recommends that the State party verify whether the absence of such complaints is not the result of lack of effective remedies enabling victims to seek redress, victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee requests the State party to provide in its next report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings. Such information should include the number and nature of cases brought, convictions obtained and sentences imposed, and any restitution or other remedies provided to victims of such acts.

15. The Committee notes the data provided on the appointment of interpreters in cases involving persons who do not understand the language in which the legal proceedings are being conducted. The Committee regrets that no statistical data appears to exist on the ethnicity of detainees in pretrial detention and of prisoners in correctional facilities.

The Committee recalls its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and requests the State party to provide in its next report updated information on the appointment of interpreters in cases involving persons who do not understand the language in which the legal proceedings are being conducted, as well as data on the ethnicity of detainees in pretrial detention facilities and of prisoners in correctional facilities.

16. The Committee regrets that the information on the situation of Roma in the periodic report of the State party remains scarce and that there is no information on any strategy the State party may have developed with a view to protecting Roma against discrimination (art. 5).

The Committee recommends that the State party include detailed information in its next report on the situation of Roma, in particular on measures to address the education levels of Roma, which appear to be considerably lower than the nation's average. It recalls its general recommendation No. 27 (2000) on discrimination against Roma and recommends that the State party adopt a strategy with a view to protecting them against discrimination by State bodies, as well as by any person or organization.

17. The Committee has noted with interest the information provided by the State party on the work of the National Centre for Human Rights and the Commissioner for Human Rights of the Oliy Majlis (Ombudsman). Insufficient information was provided, however, to ascertain whether these institutions comply with the Principles relating to the Status of

National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) (art. 6).

The Committee encourages the State party to ensure that a national institution clearly in conformity with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) exists and that it is provided with adequate human and financial resources (General Assembly resolution 48/134).

18. 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).

19. 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.

20. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

21. 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 cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

22. The Committee invites the State party to consult, expand and deepen its dialogue with different organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the follow-up to the present concluding observations and the preparation of the next periodic report.

23. Noting that the State party submitted its core document in 2004 (HRI/CORE/1/Add.129), 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).

24. 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 12 and 15 above.

25. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 8, 9, 10 and 16 and requests the State

party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

26. The Committee recommends that the State party submit its eight and ninth periodic reports in a single document, due on 28 October 2012, 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. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).
