



# International Convention on the Elimination of All Forms of Racial Discrimination

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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

#### Kazakhstan

1. The Committee considered the fourth and fifth periodic reports of Kazakhstan (CERD/C/KAZ/4-5), submitted in one document, at its 1991st and 1992nd meetings (CERD/C/SR.1991 and CERD/C/SR.1992), held on 26 February and 1 March. At its 2006th and 2007th meetings (CERD/C/SR.2006 and CERD/C/SR.2007), held on 10 March 2010, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the fourth and fifth periodic reports of the State party. 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 questions raised in the list of issues (CERD/C/KAZ/Q/4-5 and Add.1) and by Committee members during the dialogue.

#### B. Positive aspects

3. The Committee notes the State party's acknowledgment that it is a multi-ethnic country, with approximately 140 different ethnic groups, 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.

4. The Committee notes with appreciation the positive initiatives taken by the State party in the field of minority rights, including important policies to help preserve minority languages, the establishment and funding of ethno-cultural

associations for the preservation of ethnic cultures and traditions and minority language media.

5. The Committee notes with satisfaction that the State party has ratified most United Nations core human rights treaties and commends the State party for recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals, in accordance with article 14 of the Convention.

6. The Committee also notes with satisfaction the adoption by the State party on 5 May 2009 of the National Plan of Action 2009-2012 in the field of human rights that includes several measures related to the implementation of the Convention.

7. The Committee expresses appreciation for the mandate given to the Assembly of the People and commends the State party on the recent adoption of the Law on the Assembly of the People of Kazakhstan in October 2008, which established that nine deputies to the Lower Chamber of the Parliament (*Majilis*) would be appointed from the Assembly.

### C. Concerns and recommendations

8. The Committee is concerned at reports of rising ethnic tension that resulted in some inter-ethnic clashes. It notes the information provided by the State party delegation that this tension is motivated mainly by social and economic conditions of some groups of the population, especially in the rural areas.

**The Committee recommends that the State party take all steps to address the root causes of inter-ethnic tension through, inter alia, further integration of all groups of the population, further development of the rural areas, reduction of unemployment rates and advancement of equality in land distribution. Furthermore, the Committee recommends that the State party strengthen the early detection and prevention of inter-ethnic conflicts, including through an effective monitoring mechanism of relations between ethnic groups and the adoption of measures of education of the population as a whole in a spirit of understanding and non-discrimination, and report on the results of these measures to the Committee in its next periodic report (art. 2).**

9. While welcoming the constitutional provisions and several articles of the Law on Education guaranteeing the free choice of every person to learn and use his or her native language, as well as the existence of informal structures, such as Sunday schools, the Committee notes, however, with concern, information on the deficiencies in the number of schools, textbooks, lack of qualified staff and quality of education in and of minority languages.

**The Committee encourages the State party to take the necessary measures for the effective implementation of the constitutional provisions and of the Law on education with a view to ensuring:**

- (a) **The adequate quality of the minority language schools;**
- (b) **The adequate funding and resources, particularly for schools using languages of smaller ethnic groups;**

(c) **The sufficient provision of adequate professional staff and minority language textbooks;**

(d) **That school textbooks include appropriate consideration of the cultures, traditions and history of minorities and their contributions to Kazakh society;**

(e) **Improved access to university education for students belonging to all ethnic groups without discrimination, including through the adoption of appropriate special measures in line with the general recommendation No. 32 (2009) (arts. 5 (e) and 7).**

10. While noting the efforts of the State party to elaborate legal provisions forbidding racial discrimination, such as several articles contained in the Law on elections, Labour Code, Law on the judiciary and status of judges, Law on culture etc., the Committee notes with concern that the State party has not adopted comprehensive legislation to prevent and combat discrimination in all areas, including a definition encompassing both direct and indirect discrimination on grounds of race and ethnic origin, as well as legislation incriminating all aspects of racial discrimination in accordance with articles 4 (a) and (b) of the Convention.

**Recalling its previous recommendation (CERD/C/65/CO/3, para. 8), the Committee encourages the State party to continue its efforts by adopting a comprehensive anti-discrimination law that includes a definition of direct and indirect discrimination, as stipulated in article 1, paragraph 1, of the Convention. Moreover, the Committee recommends that the State party conduct a comprehensive review of the existing legislation in order to bring it in full conformity with the Convention, mainly with the provisions of article 4 (a) and (b).**

11. The Committee is concerned about the limited participation of minorities in political life and decision-making at both national and regional levels, and in particular their continuing under-representation in both Houses of Parliament, *i.e.* Majilis and Senate. The Committee notes that the process of selection and appointment of Assembly members and of nine deputies to the Lower Chamber of the Parliament from the Assembly of People of Kazakhstan may not be fully based on the principle of representativeness and election by ethnic minority groups themselves.

**The Committee encourages the State party to take further measures, including special measures, aimed at ensuring a fair and adequate participation of all members of minority groups in political life and in any decision-making processes and their prior consultation on matters affecting their rights and interests. Moreover, the Committee recommends that the State party increase the potential and importance of the Assembly of the People by establishing election rules based on the principle of representativeness and attributing to it new functions as a standing body with regular sessions which should consider a wide range of issues of particular relevance to minorities (arts. 1, para. 4; 2, para. 2; and 5 (c)).**

12. While taking note of the data presented by the State party on the representation of ethnic groups, the Committee is concerned about the existing situation of representation of ethnic groups in State bodies at central and local levels. While ethnic groups represent about 36.4 per cent of the population of the State party, according to the census of 1 January 2010, more than 84 per cent of

public servants as a whole and more than 92 per cent in central governmental bodies are ethnic Kazakhs.

**The Committee recommends that the State party take effective measures with a view to improving the representation of minority groups in State bodies and public services and preventing and combating all forms of discrimination in the selection and recruitment process in the central and local administration. The Committee invites the State party to provide in its next periodic report information on the measures taken to this end, and statistical data on the representation in the areas where ethnic groups live in substantial numbers (art. 5 (f)).**

13. While appreciating the efforts of the State party to reply to some questions on the situation of ethnic groups in the country, the Committee notes the absence in the report of information on the social and economic situation of different ethnic groups and areas of the country.

**The Committee recommends that the State party include in its next periodic report detailed information and, wherever possible, disaggregated statistical data on the social and economic situation of different ethnic groups and of geographical areas where they live in the State party (art. 5 (e)).**

14. While welcoming the information provided in the report of the State party, indicating that there were about 5,000 Roma in Kazakhstan, and that measures were being introduced to prevent acts of discrimination against them, the Committee notes the absence of information on the economic and social situation of Roma.

**The Committee recommends that the State party, taking into account general recommendation No. 27 (2000), provide detailed information in its next periodic report on the situation of Roma, including data on their enjoyment of economic, social and cultural human rights. The Committee also invites the State party to take into account the situation of Roma communities in all programmes and projects planned and implemented and in all measures adopted, and to ensure that the Roma minority is represented in State institutions, especially in localities where they live (art. 5).**

15. While welcoming the adoption by the State party of the National Refugee Law in December 2009, the Committee takes note of information received regarding the alleged refusal by the authorities to register the applications for asylum from citizens of certain countries. In addition, the Committee notes with concern that the lack of registration of their applications may lead to limits of their social and economic rights.

**The Committee draws the attention of the State party to its general recommendation No. 30 (2004) on discrimination against non-citizens and urges the State party to eliminate discriminatory practices affecting registration of asylum-seekers and to ensure full access of all persons without discrimination to the refugee determination procedure, according to the international standards. The Committee recommends that the State party provide adequate training for public officials and law enforcement personnel with the aim of avoiding any tendency towards discriminatory conduct towards non-citizens and asylum-seekers (arts. 2 and 5).**

16. The Committee is concerned about alleged information on the vulnerable situation of migrant workers whose rights would be violated, due to the lack of permanent registration and difficulties to legalize their situation, placing them at constant risk of extortion and deportation, and about alleged bad treatment of foreigners in transit throughout the country, by the police, customs and other border officials.

**The Committee recommends that the State party:**

(a) **Take measures to facilitate the regularization of the situation of migrant workers through, inter alia, a revision of the system for granting work permits, increasing the flexibility of the quota system, and additional legal assistance;**

(b) **Ensure the effective investigation, prosecution and punishment of employers and intermediaries responsible for violations of the rights of migrant workers and foreigners and, in particular, strengthen measures aimed at fighting illegal immigration and human trafficking;**

(c) **Establish training programmes for law enforcement agencies and administration on migrant and foreigners rights, so as to avoid being submitted to bad treatment, including extortion and deportation, because they are not registered or transiting the territory of the State party;**

(d) **Ensure that migrant workers have access to effective appeals against deportation;**

(e) **Ensure effective access to health care, education and social benefits for migrant workers and their families, without discrimination (art. 5 (e)).**

17. While noting the information provided in the report of the State party, the Committee remains of the view that measures taken to educate the public officials, including law enforcement officials and members of the judiciary, as well as media professionals on the provisions of the Convention should be strengthened.

**The Committee suggests that the State party consider intensifying human rights education, in particular on the provisions of the Convention, and training of law enforcement officers, teachers, social workers, public servants and mass media, and draws attention to its general recommendation No. 13 (1993) on the training of law enforcement official in the protection of human rights in that regard (art. 7).**

18. The Committee notes with concern that there have been very few complaints or court decisions in civil or administrative proceedings concerning acts of racial discrimination during the reporting period. Moreover, the Committee notes the limited information provided by the State party on the number of offences ethnically or racially motivated and the result of prosecution. The Committee also notes that during the reporting period the Ombudsman received one complaint of racial discrimination.

**Considering that no country is free from racial discrimination, the Committee invites the State party to explore why there have been very few complaints of racial discrimination. Reiterating its previous**

concluding observations and 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 that the lack 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 that the State party provide in its next periodic 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, court decisions, and any restitution or other remedies provided to victims of such acts (arts. 2, para. 1 (d); 4 and 6).

19. While welcoming the conditions created for the return and settling down of Oralmans in the territory of the State party, the Committee would like to see that other individuals in the same situation are not discriminated against.

**The Committee invites the State party to consider applying special measures to all persons returning to the country, so as to avoid any discrimination against them on racial or ethnic grounds.**

20. The Committee notes reports of renaming places and public signs from Russian or Uighur into only the Kazakh language, which may cause resentment among minority groups.

**The Committee recommends that the State party take the necessary measures to ensure the use of minority languages, particularly in regions with compact minority communities, the use of a dual language approach when renaming towns and villages and in the use of public signs, as well as the protection of the cultural rights of all its minority groups.**

21. While noting the existence of the Commission on Human Rights under the President and the Human Rights Commissioner of Kazakhstan (Ombudsman), the Committee is concerned that they do not seem to work independently and to have the authority and the competences to contribute effectively to the implementation of the Convention.

**Reiterating its previous concluding observations, 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).**

22. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights instruments 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), the International Labour Organization Convention No. 111 (1958) on non-discrimination in employment and occupation and 1960 UNESCO Convention against discrimination in education.

23. 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.

24. The Committee recommends that the State party continue consulting, expanding and deepening 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.

25. 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 resolution 61/148, in which it 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.

26. The Committee recommends that the reports of the State party 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 State language, the language of official use and other commonly used languages, as appropriate.

27. Noting that the State party did not submit its Core Document, the Committee encourages the State party to submit it, 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).

28. 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 9, 16 and 20 above.

29. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 8, 10 and 15 and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

30. The Committee recommends that the State party submit its sixth and seventh periodic reports in a single document, due on 25 September 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.