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United Nations

Report of the Committee on the Elimination of Racial Discrimination

Ninetieth session
(2-26 August 2016)

Ninety-first session
(21 November-9 December 2016)

Ninety-second session
(24 April-12 May 2017)

General Assembly

Official Records
Seventy-second Session
Supplement No. 18

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Contents

Letter of transmittal

8 August 2017

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination.

The report contains information on the ninetieth, ninety-first and ninety-second sessions of the Committee, held from 2 to 26 August 2016, 21 November to 9 December 2016 and 24 April to 12 May 2017, respectively.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 178 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During its ninetieth, ninety-first and ninety-second sessions, the Committee continued to deal with a significant workload in terms of the examination of States parties' reports (see chapter III) in addition to other related activities, including a consultative and feedback meeting with States parties to the Convention and a seminar for non-governmental organizations. The Committee examined the situations of several States parties under its early warning and urgent action procedures (see chapter II). Furthermore, the Committee examined information submitted by several States parties under its procedure for follow-up to the consideration of reports (see chapter IV). The Committee also contributed to the General Assembly plenary meeting in observance of the International Day for the Elimination of Racial Discrimination and to the debate on racial profiling and incitement to hatred, including in the context of migration, held during the thirty-fourth session of the Human Rights Council. Furthermore, the Committee adopted a statement on the occasion of the high-level plenary meeting on addressing large movements of refugees and migrants (see annex II).

The Committee remains committed to a continuous process of improvement of its working methods, with the aim of maximizing its effectiveness and adopting innovative approaches to combating contemporary forms of racial discrimination. The evolving practice and interpretation of the Convention by the Committee is reflected in its general recommendations, opinions on individual communications, decisions and concluding observations.

As we move into the second 50 years of work under the Convention, it is clear that while progress has been made to address racial discrimination, major and multifaceted challenges remain in the struggle towards its elimination, including the inability or unwillingness to call racial discrimination by its shameful name. I have no doubt that the dedication and professionalism of the members of the Committee, of whom 40 per cent are women, as well as the pluralistic and multidisciplinary nature of their contributions, will ensure that the work of the Committee will continue to contribute significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(*Signed*) Anastasia **Crickley**
Chair
Committee on the Elimination
of Racial Discrimination

His Excellency Mr. António Guterres
Secretary-General of the United Nations
New York

I. Organizational and related matters

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 12 May 2017, the closing date of the ninety-second session of the Committee on the Elimination of Racial Discrimination, there were 178 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the ninety-second session, 57 of the 178 parties to the Convention had made the declaration envisaged in article 14 (1) of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of the parties to the Convention, of the States that have made the declaration under article 14 and of the 47 States parties that have accepted the amendments to the Convention adopted at the fourteenth meeting of States parties can be found on the website of the United Nations Treaty Collection (see https://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en).

B. Sessions and agendas

3. The Committee held three sessions during the period under review. The ninetieth session (2449th-2486th meetings), the ninety-first session (2487th-2516th meetings) and the ninety-second session (2517th-2546th meetings) were held at the United Nations Office at Geneva from 2 to 26 August 2016, from 21 November to 9 December 2016 and from 24 April to 12 May 2017, respectively.

4. The provisional agendas of the three sessions were adopted by the Committee without revision (see CERD/C/90/1, CERD/C/91/1 and CERD/C/92/1).

C. Membership

5. The list of members of the Committee for the period under review is as follows:

Name of member	*Nationality*	*Term expires on 19 January*
Nourredine **Amir**	Algeria	2018
Alexei S. **Avtonomov**	Russian Federation	2020
Marc **Bossuyt**	Belgium	2018
José Francisco **Calí Tzay**	Guatemala	2020
Anastasia **Crickley**	Ireland	2018
Fatimata-Binta Victoire **Dah**	Burkina Faso	2020
Afiwa-Kindéna **Hohoueto**	Togo	2018
Anwar **Kemal**	Pakistan	2018
Melhem **Khalaf**	Lebanon	2018
Gun **Kut**	Turkey	2018
José A. **Lindgren Alves**	Brazil	2018

Name of member	*Nationality*	*Term expires on 19 January*
Nicolás **Marugán**	Spain	2020
Gay **McDougall**	United States of America	2020
Yemhelha Mint **Mohamed**	Mauritania	2020
Pastor Elias **Murillo Martínez**	Colombia	2020
Verene **Shepherd**	Jamaica	2020
Yanduan **Li**	China	2020
Yeung Kam John **Yeung Sik Yuen**	Mauritius	2018

D. Officers of the Committee

6. The Bureau of the Committee comprised the following Committee members during the period under review:

Chair: Anastasia Crickley (2016-2018)

Vice-Chairs: Nourredine Amir (2016-2018)
José Francisco Calí Tzay (2016-2018)
Melhem Khalaf (2016-2018)

Rapporteur: Alexei S. Avtonomov (2016-2018)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the special procedures of the Human Rights Council and the regional human rights mechanisms

7. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization,[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

8. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations submitted to the International Labour Conference were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

9. UNHCR submits comments to the members of the Committee on the Elimination of Racial Discrimination on all States parties whose reports are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR.

[1] See *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/8718), chap. IX, sect. B.

10. UNHCR and ILO representatives attend the sessions of the Committee and brief Committee members on matters of concern.

F. Adoption of the report

11. At its 2546th meeting (ninety-second session), the Committee adopted its annual report to the General Assembly.

II. Prevention of racial discrimination, including early warning and urgent action procedures

12. The Committee's work under its early warning and urgent action procedures is aimed at preventing and responding to serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination. A working paper adopted by the Committee in 1993[2] to guide its work in this area was replaced by new guidelines adopted by the Committee at its seventy-first session in August 2007.[3]

13. The Committee's working group on early warning and urgent action, established at the sixty-fifth session of the Committee in August 2004, currently comprises the following members:

Coordinator:	José Francisco Calí Tzay
Members:	Alexei S. Avtonomov Gay McDougall Yemhelha Mint Mohamed Yanduan Li

A. Decisions

14. The following decisions were adopted by the Committee at its ninetieth and ninety-first sessions, respectively:

Decision 1 (90) on Burundi

At its 2480th meeting, on 23 August 2016, the Committee on the Elimination of Racial Discrimination decided to adopt the text below:

"*The Committee on the Elimination of Racial Discrimination*,

Acting under its early warning and urgent action procedures,

Recalling that the Arusha Peace and Reconciliation Agreement for Burundi of 28 August 2000, which ended years of inter-ethnic violence in Burundi, provided for a maximum of two terms for the President of the Republic,

Noting that the refusal by the President of Burundi to respect that provision, recognized as binding by the Constitutional Court of Burundi in its judgment of 5 May 2015, is endangering the power-sharing on political-ethnic bases established by the Arusha Agreement and has led to a major political crisis in Burundi and a continuing deterioration of the human rights situation in that country,

Alarmed by numerous reports and credible information regarding killings (348 summary executions between April 2015 and April 2016) and disappearances (36 cases in the same period) that have targeted in particular officers of the former Burundian Armed Forces and that may have an ethnic character, and regarding torture (651 cases in the same period) and arbitrary arrests (5,811 cases in the same period),

Concerned by the genocidal rhetoric in declarations by government officials that are likely to endanger peaceful inter-ethnic coexistence in Burundi,

Aware that ethnic tensions have already led in past decades to acts of genocide, also in particular in Burundi;

[2] See *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18* (A/48/18), para. 18 and annex III.

[3] See *Official Records of the General Assembly, Sixty-second Session, Supplement No.18* (A/62/18), annex III.

Disturbed by the refusal by the Government to allow a police force of up to 228 members, authorized by the Security Council in its resolution 2303 (2016) of 29 July 2016, to be deployed in Burundi,

Deploring the unprecedented lack of cooperation of the Government of Burundi with the Committee against Torture during its fifty-eighth session, held from 25 July to 12 August 2016,

1. *Calls upon* the Government of Burundi to fully respect its international obligations, in particular those arising from the International Convention on the Elimination of All Forms of Racial Discrimination;

2. *Requests* the United Nations High Commissioner for Human Rights to draw the attention of the General Assembly, the Security Council and the Human Rights Council and its special procedures, as well as the treaty bodies established under the human rights conventions to which Burundi is a party, to the human rights situation in Burundi."

Decision 1 (91) on Burundi

At its 2497th meeting, on 28 November 2016, the Committee on the Elimination of Racial Discrimination decided to adopt the text below:

"*The Committee on the Elimination of Racial Discrimination*,

Acting under its early warning and urgent action procedure,

Recalling its decision 1 (90), adopted on 23 August 2016,

Deploring the increased lack of cooperation of the Government of Burundi with the international community, including:

(a) The Government's refusal to allow the entry of 228 police officers authorized by the Security Council in its resolution 2303 (2016) of 29 July 2016,

(b) The Government's refusal to appear before the Committee against Torture to reply to the questions put to it during the Committee's fifty-eighth session, held from 25 July to 12 August 2016,

(c) Declaring personae non gratae the three independent experts appointed by the United Nations High Commissioner of Human Rights pursuant to Human Rights Council resolution S-24/1 of 17 December 2015, following the consideration of their report (A/HRC/33/37) during the thirty-third session of the Council in September 2016,

(d) The Government's refusal to cooperate with the commission of inquiry on human rights in Burundi established by the Human Rights Council in its resolution 33/24 of 30 September 2016,

(e) The Government's decision of 11 October 2016 to suspend cooperation with the Office of the United Nations High Commissioner for Human Rights office in Burundi,

(f) The signing on 18 October 2016 by the President of legislation to withdraw from the International Criminal Court,

Expressing deep concern about:

(a) Reports of killings, summary executions, disappearances and torture, many of which appear to have an ethnic character,

(b) Reports of the open display in the country of armed militia intimidating the population, demonstrating the unwillingness or the inability of the Government to protect civilians,

(c) The issuance of a questionnaire by the Ministry of Civil Service on 8 November 2016 requesting all public servants to state their ethnicity, which, given

the country's history of virulent ethnic conflict, spreads fear and mistrust among the population,

(d) The frequent use of hate speech and incitement to ethnic violence by government officials,

(e) The growing number of persons leaving Burundi to seek refuge in neighbouring countries,

1. *Urges* the Government of Burundi to:

(a) Abide by its international human rights obligations, in particular those arising from the International Convention on the Elimination of All Forms of Racial Discrimination, and refrain from taking any action that exacerbates the ethnic tensions in the country;

(b) Take prompt and effective action to protect civilians, including through the immediate admission of the police officers authorized by the Security Council in its resolution 2303 (2016);

(c) Promptly reengage with the Office of the United Nations High Commissioner for Human Rights;

2. *Requests* the United Nations High Commissioner for Human Rights to draw the attention of the General Assembly, the Security Council and the Human Rights Council and its relevant special procedure mandate holders, as well as the treaty bodies established under the human rights treaties to which Burundi is a party, to the grave human rights situation in Burundi."

B. Consideration of situations under the early warning and urgent action procedures

15. During the reporting period, the Committee considered a number of situations under its early warning and urgent action procedures, as described below.

16. In the light of information received concerning allegations of a threat of extinguishment of indigenous land rights of the Secwepemc Nation and the St'át'imc Nation in British Columbia, Canada, the Committee sent a letter to the Government of Canada on 3 October 2016, requesting it to provide information on measures to ensure that representatives of Secwepemc bands and the authorities of the Secwepemc Nation are involved in negotiations that may affect their collective land rights and territory. The Committee also requested information on steps taken to implement the right to free, prior and informed consent of the Secwepemc Nation and the St'at'imc Nation and to seek in good faith agreements with them regarding their land and resources claims.

17. On 3 October 2016, the Committee expressed concern about allegations of excessive use of force, arrests, killings and torture of persons belonging to the Papuan indigenous people in West Papua, Indonesia, and requested the Government of Indonesia to provide information on such allegations and action taken to address them. The Committee also requested the State party to submit information on the status of implementation of the law on special autonomy in West Papua; on measures to ensure that indigenous people in West Papua were effectively protected against arbitrary arrest and that they effectively enjoyed their right to freedom of assembly and of association, including when they expressed dissenting opinions; on measures to investigate allegations of excessive use of force by security forces; and on steps to improve access to education for Papuan children in West Papua.

18. In a letter dated 3 October 2016, the Committee expressed to the Government of the United Republic of Tanzania its concern regarding allegations of forced evictions, arrests, intimidation and ill-treatment of the pastoralist Maasai indigenous community. It requested the State party to submit information on such allegations and the action taken to address them; on proceedings taken against Maasai and measures taken to ensure the effective participation of Maasai in decisions affecting them; and on measures taken to investigate

allegations of excessive use of force by the security forces. It also requested the State party to halt any forced evictions, ongoing or planned, of Maasai.

19. In a letter dated 3 October 2016, the Committee expressed to the Government of Thailand its concern regarding allegations of forced evictions of the Karen indigenous people from Kaeng Krachan National Park. The Committee recalled that a letter on the same matter had been dispatched in 2012. New information submitted to the Committee raised allegations of escalating violence against the Karen indigenous people, and referred to the fact that lands of the Karen people (also known as the Kaeng Krachan Forest Complex site) had been nominated as a natural World Heritage Site under the Convention for the protection of the world cultural and natural heritage of the United Nations Educational, Scientific and Cultural Organization and that, as a result, the Government had been taking steps to remove the Karen indigenous communities from their lands. The Committee requested the State party to respond to those allegations and inform it about measures to address them. Furthermore, the Committee requested information about steps taken to cease threats against and intimidation of the Karen indigenous people, to investigate allegations of excessive use of force, to implement the right to free, prior and informed consent of the Karen indigenous people in decisions affecting them, to reconsider the nomination of the Kaeng Krachan Forest Complex site as a World Heritage Site and to halt forced evictions of the Karen indigenous people.

20. On 13 December 2016, the Committee sent a letter to the Government of Canada concerning allegations of violations of the rights of indigenous women in the village of Lote Ocho in Guatemala by the employees of a Canadian company, Hudbay Minerals Inc., as well as the situation of the Lubicon Lake Nation and its land claims. The Committee noted the State party's written reply and encouraged the State party to continue taking measures to address those concerns. It also informed the State party that those issues would be taken up during the next review process, during the ninety-third session of the Committee.

21. On 13 December, the Committee sent a letter to the Government of Ethiopia following information received concerning allegations of excessive use of force against protesters in the Oromia region of Ethiopia. The Committee expressed concern regarding allegations of mass arrests, killings and enforced disappearances carried out by the country's security forces since November 2015 in the context of ethnic tension. The Committee requested the State party to respond to the allegations and to inform it about measures taken to end excessive use of force by police forces, to investigate such incidents and to restore peace in the Oromia and Amhara regions.

22. On 13 December 2016, the Committee sent a letter to the Government of Guatemala concerning allegations of violations of the rights of indigenous women in the village of Lote Ocho in Guatemala by the employees of a Canadian company, Hudbay Minerals Inc. The Committee thanked the State party for its reply and requested additional information on the case of Margarita Caal and 10 other women. It reiterated its previous recommendations to protect the right of indigenous peoples and requested the State party to include updated information in that regard in its next periodic report.

23. On 13 December 2016, the Committee sent a letter to the Government of Indonesia regarding the human rights situation in the Indonesian provinces of Papua and West Papua. The Committee thanked the State party for its reply and noted additional allegations of arbitrary arrest and detention of protestors of West Papuan origin and instances of forced disappearance and extrajudicial killings of West Papuan community leaders. It requested the State party to submit information on the allegations and on measures taken to address them.

24. Following the receipt of information from non-governmental organizations, the Committee sent a letter on 17 May 2017 to the Government of Bangladesh concerning the situation of Rohingya refugees. It expressed concern about the allegations of non-registration of refugees and the poor living conditions in refugee camps. The Committee also expressed concern about allegations of sexual violence against Rohingya women and requested the State party to submit information about the allegations and on measures taken to address them.

25. On 17 May 2017, the Committee sent a second letter to the Government of Canada concerning land rights of the Secwepemc Nation and the St'át'imc Nation in British Columbia. It thanked the State party for its reply and encouraged it to continue taking action to protect the rights of indigenous peoples of those Nations. The Committee also informed the State party that the issues would be discussed during the next periodic review process, scheduled to take place during the Committee's ninety-third session.

26. The Committee sent a letter to the Government of India on 17 May 2017 concerning the situation of students of Kashmiri origin and of African origin. The Committee expressed concern about allegations of attacks against students from India-administered Kashmir studying in India and of the State party's failure to investigate the attacks. It also expressed concern about allegations that racially motivated attacks against African students had taken place in Greater Noida. It requested the State party to submit information on measures taken to prevent, investigate and deter such attacks.

27. On 17 May 2017, the Committee sent a second letter to the Government of Thailand concerning the situation of the Karen indigenous people. It thanked the State party for its reply and requested additional information on measures taken to carry out wider consultations with the Karen people in relation to decisions that affected them, on steps taken to investigate human rights violations of the Karen people and on steps taken to stop the forced evictions of the Karen people.

28. In response to information received, the Committee sent a letter on 17 May 2017 to the Government of the United States of America concerning the situation of the indigenous peoples living along the border between the State party and Mexico. The Committee recalled its previous letter of 2013 addressing the same matter. It expressed concern about the planned expansion of the border wall that would allegedly have an adverse impact on the indigenous communities living along the border. It noted with concern that the executive order entitled: "Border Security and Immigration Enforcement Improvements" had been adopted without consultation with or consideration of potentially affected communities, including indigenous communities. The Committee requested the State party to submit information on the impact of the above-mentioned order on the rights of indigenous peoples, including their land rights, and to inform the Committee about measures taken to respect the right to free, prior and informed consent of indigenous peoples in decisions affecting them.

III. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

29. At its ninetieth session, the Committee adopted concluding observations on eight States parties: Greece (CERD/C/GRC/CO/20-22), Lebanon (CERD/C/LBN/CO/18-22), Pakistan (CERD/C/PAK/CO/21-23), Paraguay (CERD/C/PRY/CO/4-6), South Africa (CERD/C/ZAF/CO/4-8), Sri Lanka (CERD/C/LKA/CO/10-17), Ukraine (CERD/C/UKR/CO/22-23) and the United Kingdom of Great Britain and Northern Ireland (CERD/C/GBR/CO/21-23). At its ninety-first session, the Committee adopted concluding observations on six States parties: Argentina (CERD/C/ARG/CO/21-23), Italy (CERD/C/ITA/CO/19-20), Portugal (CERD/C/PRT/CO/15-17), Togo (CERD/C/TGO/CO/18-19), Turkmenistan (CERD/C/TKM/CO/8-11) and Uruguay (CERD/C/URY/CO/21-23). At its ninety-second session, the Committee adopted concluding observations on six States parties: Armenia (CERD/C/ARM/CO/7-11), Bulgaria (CERD/C/BGR/CO/20-22), Cyprus (CERD/C/CYP/CO/23-24), Finland (CERD/C/FIN/CO/23), Kenya (CERD/C/KEN/CO/5-7) and the Republic of Moldova (CERD/C/MDA/CO/10-11).

30. The concluding observations adopted by the Committee at those sessions are available from the OHCHR website (www.ohchr.org) and the Official Documents System of the United Nations (http://documents.un.org) under the symbols indicated above.

IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention

31. During the period under review, Mr. Kut served as coordinator for follow-up to the consideration of reports submitted by States parties.

32. Terms of reference for the work of the coordinator on follow-up[4] and guidelines on follow-up[5] to be sent to each State party together with the concluding observations of the Committee were adopted by the Committee at its sixty-sixth and sixty-eighth sessions, respectively.

33. At the 2486th meeting (ninetieth session), the 2515th meeting (ninety-first session) and the 2545th meeting (ninety-second session), Mr. Kut presented a report to the Committee on his activities as coordinator.

34. During the period under review, follow-up reports on the implementation of recommendations regarding which the Committee had requested information were received from the following States parties: Colombia (CERD/C/COL/CO/15-16/Add.1), Denmark (CERD/C/DNK/CO/20-21/Add.1), Germany (CERD/C/DEU/CO/19-22/Add.1), Guatemala (CERD/C/GTM/CO/14-15/Add.1), Japan (CERD/C/JPN/CO/7-9/Add.1), Lebanon (CERD/C/LBN/CO/18-22/Add.1), Lithuania (CERD/C/LTU/CO/6-8/Add.1), Montenegro (CERD/C/MNE/CO/2-3/Add.1), the Netherlands (CERD/C/NLD/CO/19-21/Add.1), Norway (CERD/C/NOR/CO/21-22/Add.1), Peru (CERD/C/PER/CO/18-21/Add.1), the former Yugoslav Republic of Macedonia (CERD/C/MKD/CO/8-10/Add.1) and Turkey (CERD/C/TUR/CO/4-6/Add.1).

35. At its ninetieth, ninety-first and ninety-second sessions, the Committee considered the follow-up reports of Colombia, Denmark, Germany, Guatemala, Japan, Lebanon, Lithuania, Montenegro, the Netherlands, Norway, Peru, the former Yugoslav Republic of Macedonia and Turkey and continued the constructive dialogue with those States parties by transmitting comments and requesting further information.

[4] For the terms of reference, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV.

[5] For the text of the guidelines, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 18* (A/61/18), annex VI.

V. States parties the reports of which are seriously overdue

A. Reports overdue by at least 10 years

36. The following States parties are at least 10 years late in the submission of their reports:

Sierra Leone	Fourth periodic report overdue since 1976
Liberia	Initial report overdue since 1977
Gambia	Second report overdue since 1982
Somalia	Fifth periodic report overdue since 1984
Papua New Guinea	Second periodic report overdue since 1985
Solomon Islands	Second periodic report overdue since 1985
Central African Republic	Eighth periodic report overdue since 1986
Afghanistan	Second periodic report overdue since 1986
Seychelles	Sixth periodic report overdue since 1989
Saint Lucia	Initial report overdue since 1991
Malawi	Initial report overdue since 1997
Burundi	Eleventh periodic report overdue since 1998
Swaziland	Fifteenth periodic report overdue since 1998
Gabon	Tenth periodic report overdue since 1999
Haiti	Fourteenth periodic report overdue since 2000
Guinea	Twelfth periodic report overdue since 2000
Syrian Arab Republic	Sixteenth periodic report overdue since 2000
Zimbabwe	Fifth periodic report overdue since 2000
Lesotho	Fifteenth periodic report overdue since 2000
Tonga	Fifteenth periodic report overdue since 2001
Bangladesh	Twelfth periodic report overdue since 2002
Eritrea	Initial report overdue since 2002
Belize	Initial report overdue since 2002
Benin	Initial report overdue since 2002
Equatorial Guinea	Initial report overdue since 2003
San Marino	Initial report overdue since 2003
Hungary	Eighteenth periodic report overdue since 2004
Timor-Leste	Initial report overdue since 2004
Trinidad and Tobago	Combined fifteenth and sixteenth periodic reports overdue since 2004
Comoros	Initial report overdue since 2005
Uganda	Combined eleventh to thirteenth periodic reports overdue since 2005
Mali	Combined fifteenth and sixteenth periodic reports overdue since 2005

Ghana	Combined eighteenth and nineteenth periodic reports overdue since 2006
Libya	Combined eighteenth and nineteenth periodic reports overdue since 2006
Côte d'Ivoire	Combined fifteenth to seventeenth periodic reports overdue since 2006
Bahamas	Combined fifteenth and sixteenth periodic reports overdue since 2006
Cabo Verde	Combined thirteenth and fourteenth periodic reports overdue since 2006
Saint Vincent and the Grenadines	Combined eleventh to thirteenth periodic reports overdue since 2006
Latvia	Combined sixth to eighth periodic reports overdue since 2007

B. Reports overdue by at least five years

37. The following States parties are at least five years late in the submission of their reports:

Bahrain	Combined eighth and ninth periodic reports overdue since 2007
Andorra	Initial report overdue since 2007
Saint Kitts and Nevis	Initial report overdue since 2007
United Republic of Tanzania	Combined seventeenth and eighteenth periodic reports overdue since 2007
Barbados	Combined seventeenth and eighteenth periodic reports overdue since 2007
Brazil	Combined eighteenth to twentieth periodic reports overdue since 2008
Nigeria	Combined nineteenth to twentieth periodic reports overdue since 2008
Madagascar	Combined nineteenth and twentieth periodic reports overdue since 2008
Guyana	Combined fifteenth and sixteenth periodic reports overdue since 2008
Zambia	Combined seventeenth to nineteenth periodic reports overdue since 2009
Botswana	Combined seventeenth and eighteenth periodic reports overdue since 2009
Antigua and Barbuda	Combined tenth and eleventh periodic reports overdue since 2009
Democratic Republic of the Congo	Combined sixteenth to eighteenth periodic reports overdue since 2010
India	Combined twentieth and twenty-first periodic reports overdue since 2010
Indonesia	Combined fourth to sixth periodic reports overdue since 2010
Mozambique	Combined thirteenth to seventeenth periodic reports overdue since 2010
Guinea-Bissau	Initial report overdue since 2011

Croatia	Combined ninth and tenth periodic reports overdue since 2011
Nicaragua	Combined fifteenth to seventeenth periodic reports overdue since 2011
Congo	Combined tenth and eleventh periodic reports overdue since 2012
Philippines	Combined twenty-first and twenty-second periodic reports overdue since 2012
Tunisia	Combined twentieth to twenty-second periodic reports overdue since 2012

C. Action taken by the Committee to ensure submission of reports by States parties

38. Following the decision taken at its eighty-fifth session to adopt the simplified reporting procedure, the Committee sent a note verbale on 20 January 2015 to those States parties whose periodic reports were overdue by more than 10 years, offering them the option to report under the new procedure. As at 12 May 2017, three States parties have responded positively.

VI. Consideration of communications under article 14 of the Convention

39. Under article 14 of the Convention, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee for consideration. A total of 57 States parties have recognized the competence of the Committee to consider such communications; information on the declarations can be found on the website of the United Nations Treaty Collection (http://treaties.un.org/).

40. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

41. At the time of adoption of the present report the Committee had registered, since 1984, 61 complaints concerning 15 States parties. Of those, 2 complaints were discontinued, 19 were declared inadmissible and 1 communication was declared admissible. The Committee adopted final decisions on the merits of 34 complaints and found violations of the Convention in 18 of them. Six complaints were pending consideration.

42. At its ninety-first session, the Committee considered communication No. 53/2013 (*Pjetri v. Switzerland*).[6] The communication was submitted by Benon Pjetri, a national of Albania residing in Switzerland, who claimed to be a victim of a violation by Switzerland[7] of his rights under articles 2 (1) (a) and (c), 5 (a) and (d) (iii) and 6 of the Convention. The Committee noted the State party's argument that the communication was inadmissible because the refusal of the petitioner's application for naturalization was not based on racial discrimination as defined in article 1 of the Convention, as article 1 (2) specifically excluded distinctions, exclusions, restrictions or preferences made by a State party between citizens and non-citizens from the application of the Convention. However, the Committee, recalling its general recommendation No. 30 (2004) on discrimination against non-citizens and, in particular, the obligation to interpret article 1 (2) of the Convention in the light of article 5, including by ensuring that non-citizens were not discriminated against with regard to access to citizenship or naturalization and by paying attention to possible barriers to naturalization that could exist for long-term or permanent residents, considered that the communication was not prima facie incompatible with the provisions of the Convention and declared it admissible.

43. Regarding the merits of the communication, the Committee noted the petitioner's claim that the negative naturalization decision by the municipal assembly amounted to racial discrimination because it was based on his ethnic origin, as demonstrated by a statement, made by a member of the municipal assembly, containing negative remarks related to his national or ethnic origin. It also noted the petitioner's claim that the integration requirements for naturalization were not adapted to his disability and the hostility he had faced. The Committee noted the State party's submission that the municipal assembly had invoked several arguments against the petitioner's naturalization, including false statements made in an earlier application. The Committee further noted the petitioner's claim that the Supreme Court had not sufficiently considered that his disability had aggravated the decision of the municipal assembly to refuse his application for naturalization on the grounds of his origin, and had thereby omitted to evaluate whether that could amount to double discrimination. However, it also noted that the State party's claims that the threshold of double discrimination on the grounds of origin and disability had not been met and that the petitioner had made separate claims of discrimination on the grounds

[6] CERD/C/91/D/53/2013.

[7] The Convention was ratified by Switzerland on 29 November 1994 by way of accession, and the declaration under article 14 was made on 19 June 2003.

of origin and disability before the national authorities and courts, without alleging any link between the two.

44. The Committee further noted that the national authorities and courts had based their decisions on the fact that the petitioner had not qualified for naturalization for reasons other than the alleged discrimination on account of his Albanian origin, in particular that he had not integrated locally. Therefore, it considered that the discrimination on the grounds of national or ethnic origin had not been demonstrated. Regarding the author's claims of discrimination on the grounds of disability, the Committee considered that, pursuant to article 1 of the Convention, it was not competent to consider the separate claim of discrimination on the grounds of disability. The Committee therefore concluded that the facts submitted by the petitioner did not demonstrate a violation of article 5 (d) (iii) separately or in conjunction with article 2 (1) (a) and (c) of the Convention.

45. With regard to the petitioner's claim under article 6 of the Convention, the Committee noted that the national courts had reviewed the author's claim of discrimination and that, after having examined the minutes of the municipal assembly's meeting and other elements of evidence, they had concluded that the decision to reject the petitioner's application for naturalization was not based on discriminatory grounds. It further noted that, although the petitioner disagreed with the reasoning in the courts' judgements, there was nothing in the information before the Committee that would indicate that the Supreme Court's judgment amounted to a violation of the Convention. The Committee therefore indicated that it could not conclude that the petitioner's right to protection and a judicial remedy against racial discrimination, as guaranteed by article 6 of the Convention, had been violated.

46. At its ninety-second session, the Committee considered communication No. 54/2013 (*A.A. et al. v. Sweden*) and declared it admissible.

VII. Follow-up to individual communications

47. At its sixty-seventh session,[8] following a discussion based on a background paper prepared by the secretariat, the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

48. At the same session, the Committee decided to add two paragraphs to its rules of procedure setting out details of the procedure.[9] The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual reports to the General Assembly, reflect the cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations (see annex I).

49. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. In general, replies may be considered satisfactory if they reveal willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies that do not address the Committee's recommendations or relate only to certain aspects of the recommendations are generally considered unsatisfactory.

50. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 34 complaints and found violations of the Convention in 18 cases. In 10 cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

[8] See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV, sect. I.

[9] Ibid., annex IV, sect. II.

Follow-up information received to date for all cases of violations of the Convention in which the Committee provided suggestions or recommendations.

State party and number of cases of violations	*Communication number and author*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory or incomplete response*	*No follow-up response received*	*Follow-up dialogue ongoing*
Denmark (6)	10/1997, Ziad Ben Ahmed Habassi	X (A/61/18)	X			
	16/1999, Kashif Ahmad	X (A/61/18)	X			
	34/2004, Hassan Gelle	X (A/62/18)	X			
	40/2007, Murat Er	X (A/63/18)		X incomplete		
	43/2008, Saada Mohamad Adan	X (A/66/18) 6 December 2010 28 June 2011	X partly satisfactory	X partly unsatisfactory		
France (1)	52/2012, Laurent Gabaroum	23 November 2016	X partly satisfactory			X
Germany (1)	48/2010, TBB-Turkish Union Berlin/Brandenburg	X (A/70/18) 1 July 2013 29 August 2013 17 September 2014 3 February 2015				X
Netherlands (2)	1/1984, A. Yilmaz-Dogan				X	
	4/1991, L.K.				X	
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)			X	X
Republic of Korea (1)	51/2012, L.G.	X (A/71/18)		X partly unsatisfactory		X
Serbia and Montenegro (1)	29/2003, Dragan Durmic	X (A/62/18)				X

State party and number of cases of violations	*Communication number and author*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory or incomplete response*	*No follow-up response received*	*Follow-up dialogue ongoing*
Slovakia (3)	13/1998, Anna Koptova	X (A/61/18, A/62/18)				X
	31/2003, L.R. et al.	X ((A/61/18, A/62/18)				
	56/2014, V.S.	X (A/71/18)		X unsatisfactory		

VIII. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

51. Under article 15 of the Convention, the Committee is empowered to consider copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, as transmitted to it by the competent bodies of the United Nations, and to submit to the General Assembly its expressions of opinion and recommendations in this regard.

52. Accordingly, and at the request of the Committee, Mr. Bossuyt examined the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2016[10] and copies of the working papers on 16 Territories prepared by the secretariat for the Special Committee and the Trusteeship Council (see CERD/C/92/3) and presented his report to the Committee at its ninety-second session, on 12 May 2017. The Committee noted, as it had done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contained only scant information directly relating to the principles and objectives of the Convention.

53. The Committee further noted that there was significant ethnic diversity in a number of the Non-Self-Governing Territories, warranting a close watch on incidents or trends that reflected racial discrimination and violation of rights guaranteed in the Convention. The Committee therefore stressed that greater efforts should be made to raise awareness concerning the principles and objectives of the Convention in Non-Self-Governing Territories. The Committee also stressed the need for States parties administering Non-Self-Governing Territories to include details on the implementation of the Convention in those territories in their periodic reports to the Committee.

[10] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 23* (A/71/23).

IX. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference

54. The Committee considered the question of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference at its ninetieth, ninety-first and ninety-second sessions.

55. Ms. McDougall participated via videoconference in the twentieth session of the Working Group of Experts on People of African Descent.

X. Fifth informal meeting with States parties

56. On 28 April 2017 the Committee held its fifth informal meeting with States parties, entitled: "ICERD in today's world". The event was well attended, with the participation of delegates from 70 States parties. Delegates from 24 States parties took the floor. A number of States parties responded in writing to two questions sent in advance by the Committee and which focused on the key challenges that States parties experience in addressing racial discrimination in their countries and on their experiences in engaging with the Committee to date. The meeting provided a platform for the States parties and the Committee to learn more about the current realities in different countries and to share a diverse range of views and experiences. Challenges in addressing racial discrimination included, among others, the establishment of legislative frameworks for combating racial discrimination, ensuring the enjoyment of rights by indigenous groups, people of African descent, Roma and other minority groups, addressing the rise in hate speech, including in online media, and addressing the rise in intolerance and xenophobia following the increase in migration. It also provided time for States parties' representatives to raise issues related to the work of the Committee, such as the reporting process required by the human rights treaty bodies, including with respect to the frequent reporting periodicity and reporting fatigue, the lack of time to implement recommendations and make changes and unequal application of the simplified reporting procedure. A number of States parties underlined that the Convention remained a fundamental treaty that required the States parties' unabridged attention and commitment of States parties and that the work of the Committee must remain at the core of human rights processes (see CERD/C/SR.2526).

XI. Consultation with civil society

57. On 23 November 2016, the Committee held a half-day consultation with civil society organizations entitled: "Joining hands to end racial discrimination".[11] The consultation provided an opportunity for the Committee to hear directly from civil society organizations about the main challenges related to racial discrimination they are addressing in their country or region, their experiences in engaging with the Committee and ideas on how the Committee can improve its engagement with such organizations. The event was attended by more than 170 participants, including members of civil society from many States and fellows from the Office of the United Nations High Commissioner for Human Rights fellowship programmes for minorities and for people of African descent. In advance of the consultation the Committee received over 50 written submissions from civil society organizations with answers to the guiding questions for the discussion. For civil society organizations in remote areas lacking the financial resources to attend the event in person, the event was made accessible through a webcast and interactivity with participants during the event through social media. Questions and comments were received remotely from civil society organizations through Facebook and Twitter with the use of the hashtag #fightracism. The Committee is grateful for the readiness of civil society organizations to work with the Committee to end racial discrimination and for all of the ideas shared by those organizations, and will consider how it can implement the ideas to strengthen its work. The organizations expressed their appreciation of the openness of the Committee in listening to their ideas and proposals, and noted that the consultation was an excellent practice for other treaty bodies to emulate (see CERD/C/SR.2492).

[11] See the Committee's website (http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx).

Annex I

Follow-up information provided in relation to cases in which the Committee adopted recommendations

1. The present annex contains a compilation of information received on follow-up to individual communications since the previous annual report,[1] as well as any decisions made by the Committee on the nature of those responses.

France

Gabre Gabaroum, opinion No. 52/2012, adopted on 10 May 2016

Issues and violations found

2. The issue before the Committee was the failure to take effective measures to counter a company's practice of stigmatizing and stereotyping French nationals of African origin on the basis of their colour, their national origin or their ethnic or racial origin. The Committee found a violation by the State party of article 2 of the Convention. It also considered that the State party had violated article 6 of the Convention, as the domestic courts had persisted in requiring the petitioner to prove discriminatory intent, which ran counter to the Convention's prohibition against all behaviour having a discriminatory effect and counter to the procedure for the reversal of the burden of proof provided for under national legislation (article L-1134-1 of the Labour Code).

Remedy recommended

3. The Committee recommended that the State party take steps to ensure that the principle of reversal of the burden of proof was fully observed by (a) enhancing the judicial procedures available to victims of racial discrimination by, inter alia, rigorously applying the principle of reversal of the burden of proof and (b) disseminating clear information about domestic remedies available to presumed victims of racial discrimination. The State party was also requested to widely disseminate the opinion of the Committee, in particular among judiciary officials.

Initial or periodic report/s examined since the adoption of the opinion

4. No periodic reports of the State party have been examined by the Committee since the adoption of the opinion.

Previous follow-up information

5. There was no previous follow-up information.

Petitioner's comments

6. On 18 August 2016, the petitioner, invoking the principle on reparation of victims of human rights violations set out in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, requested the Committee to ask the State party to grant him compensation of 4 million euros for the damages he had suffered as a result of the racial discrimination.

State party's reply

7. On 23 November 2016, the State party submitted follow-up information to the Committee. Regarding the Committee's recommendation that judicial procedures available to victims of racial discrimination be enhanced, the State party indicates that article L1134-1 of the Labour Code complies with that recommendation, as it establishes a mechanism

[1] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 18* (A/71/18).

protecting employees from discrimination, including racial discrimination. The State party indicated that the provision comprises two elements: (a) the employee needs to present objective elements that would substantiate the presumption of an existence of a case of discrimination; and (b) once the presumption has been duly substantiated, the employer must demonstrate that the difference in treatment suffered by the employee is unrelated to a discriminatory motif, as set out in article L1132-1 of the Labour Code. In addition, pursuant to article L1134-1 of the Code, those employees who claim that they have been discriminated against need only to demonstrate that the discrimination could have taken place — "appearance of discrimination" — which, according to the State party, is easier than demonstrating that the employer had the intention to discriminate against them. Furthermore, article L1134-1 of the Code also establishes that judges can take any action they consider fit in order to establish whether an employee has been discriminated against. The State party adds that the cassation court ensures that judicial decisions on cases of discrimination against employees fulfil all the legal requirements as described above, as the court can review and correct such decisions when appropriate, and that by doing so, the court ensures that the principle of reversal of the burden of proof is rigorously applied.

8. Furthermore, the State party indicates that the Defender of Rights, an institution created under Law 2011-333 of 29 March 2011, has an important role in the fight against discrimination, as the mandate holder is in charge of fighting against all types of discrimination, both direct and indirect, as established under domestic legislation and any international treaty ratified by the State party. Any person can submit complaints to the Defender of Rights and he or she has broad powers to investigate such complaints, including through visits to workplaces and the possibility of interviewing possible witnesses and requiring employers to provide requested documents. Moreover, the Defender of Rights can help victims to file cases on discrimination with the judicial authorities.

9. The State party also indicates that, under a recently adopted law,[2] it has established a provision for collective action that can be used by victims of discrimination, including all types of employees. Such collective action will allow victims of discrimination to be granted compensation for the damages they have suffered if they fulfil certain criteria.

10. The State party further submits that, in April 2016, it launched a campaign aimed at fighting discrimination at the workplace, including 2,000 posters that contained images of people of different backgrounds and anti-discriminatory messages. Furthermore, the State party notes that the websites of the Ministry of Labour and the Ministry of Justice contain information on the remedies available to victims of discrimination.

Petitioner's further comments

11. On 8 February 2017, the petitioner submitted his comments on the State party's observations. He indicates that racial discrimination still takes place in the State party, despite the fact that different types of legislation — national, European and international — prohibit it. Therefore, in the petitioner's view, the State party has not taken any effective measures to enhance the judicial procedures available to victims of racial discrimination. Regarding the application of the principle of reversal of the burden of proof, the petitioner affirms that although European law has created an obligation to apply the principle,[3] its implementation has encountered many obstacles, including reticence by the State party's parliament to pass the relevant legislation, as it took about eight years for the modifications of the relevant provisions of the Labour Code to be approved. In addition, the petitioner indicates that the approach taken by the State party in the implementation of the principle is different from the one supported in the European legislation, as while the European legislation establishes different discrimination criteria, the French law encapsulates all criteria in only one provision (L1132-1 of the Labour Code), creating confusion in the implementation of the principle of reversal of the burden of proof. The confusion has been

[2] Law on the modernization of justice of the twenty-first century, adopted on 12 October 2016.

[3] Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

exacerbated by the existence of several provisions in different pieces of legislation regarding the application of the principle, namely, in the Labour Code and in Law No. 2008-496 of 27 May 2008, and by contradictory jurisprudence of the Supreme Court. According to the petitioner, the reversal of the burden of proof is not automatic, as the victim of discrimination has to demonstrate the existence of facts that permit the presumption that a case of discrimination has taken place, which is a difficult task. In addition, judges have large margin of appreciation in determining whether the reason the employer made a difference of treatment was discriminatory.

12. Regarding the Defender of Rights, the petitioner submits that it is very difficult to submit any complaint to the institution, as the proceedings are not clear and overlap with those of other institutions, including the judiciary. With respect to collective action against any type of discrimination, the petitioner states that, despite being a positive development in the fight against racism, it is uncertain that it will be effective in practice, since, for instance, such action can be filed only by trade unions and would not cover moral damages suffered by the victims of discrimination. Moreover, taking into account that the impact of discrimination is always different for every individual, in filing such an action it would be difficult to demonstrate that the discrimination had the same impact on all the individuals in a group.

13. The petitioner further indicates that the State party does not have a clear strategy to fight discrimination, as there are several initiatives and public awareness campaigns, but there is not an articulated plan in this regard. The petitioner refers to a study indicating that employees continue to be victims of discrimination on grounds of their ethnic or national origin.[4]

Proposed further action or Committee's decision

14. The dialogue is ongoing.

Slovakia

V.S., opinion No. 56/2014, adopted on 4 December 2015

Issues and violations found

15. The issue before the Committee was the failure to effectively protect the petitioner from an alleged racial discrimination because of her Roma origin when trying to gain access to employment in a public school, which consequently violated the petitioner's right to work and deprived her of her right to effective protection and remedies against the reported act of racial discrimination. It found a violation by the State party of articles 5 (e) (i) and 6 of the Convention.

Remedy recommended

16. The Committee recommended that the State party convey an apology to the petitioner and grant her adequate compensation for the damage caused to her. The Committee also recommended that the State party fully enforce its Anti-discrimination Act through the enhancement of available court proceedings for victims of racial discrimination by ensuring, inter alia, that the principle of shifted burden of proof was applied as established in the Anti-discrimination Act and by providing clear information about available domestic remedies in cases of racial discrimination. The Committee further recommended that the State party take all measures necessary to ensure that persons involved in education, at all levels, were periodically trained to prevent and avoid racial discrimination, in accordance with the provisions of the Convention. Adequate training programmes on equality before the law were also to be provided to enforcement officials. Furthermore, the Committee requested the State party to widely disseminate its opinion.

[4] The petitioner does not provide the name of the study. He indicates that it was conducted by the Government between April and July 2016.

Initial or periodic report/s examined since the adoption of the opinion

17. No periodic reports of the State party have been examined by the Committee since the adoption of the opinion.

Previous follow-up information

18. The previous follow-up information was published in A/71/18.

Petitioner's further comments

19. The petitioner submitted further comments dated 24 January 2017. She replies that she submitted a written request for compensation to the ministry responsible for foreign affairs on 2 February 2016. She also submitted letters to the Ministry of Justice in this regard. On 5 September 2016, the petitioner received a reply from the Minister of Justice. The Minister reaffirmed the State party's position that the Committee's opinions were not binding. It stated that, therefore, given that the final decision by the domestic court had not been overturned by any competent authority, there was no obligation to compensate the petitioner.

20. On 23 September 2016, the petitioner replied to the Minister of Justice, indicating that the State party had the obligation to take ad hoc measures to approve the apology and compensation in her case. Therefore, she indicated, there was a need to adopt systematic legal or policy measures to amend her situation. She requested the Ministry of Justice to propose a general legislative mechanism to enable petitioners to be compensated when United Nations human rights treaty bodies issued an opinion indicating that the petitioners' rights had been violated. The petitioner addressed the same request to the ministry responsible for foreign affairs.

21. On 24 October 2016, the ministry responsible for foreign affairs replied that it was only in charge of coordinating communication between the Government and United Nations human rights treaty bodies and that a proposal to establish new policies on human rights was the competence of the Ministry of Justice. On 4 November 2016, the Minister of Justice sent another letter to the petitioner, reaffirming that the Committee's opinions were not binding and referring to its previous communications on the matter (see above and A/71/18).

22. The petitioner requests the Committee to continue the dialogue with the Government in order to obtain an apology and financial compensation, as determined by the Committee in its opinion.

Proposed further action or Committee's decision

23. The dialogue is ongoing.

Annex II

Statement on the occasion of the high-level plenary meeting on addressing large movements of refugees and migrants

On the occasion of the high-level plenary meeting on addressing large movements of refugees and migrants and in the context of the processes leading up to the adoption of the Comprehensive Refugee Response Framework and a global compact for safe, orderly and regular migration, the Committee on the Elimination of Racial Discrimination adopted, at its ninetieth session, a statement with the following text:

"*The Committee on the Elimination of Racial Discrimination*,

Welcoming the decision taken by the General Assembly to convene, on 19 September 2016, a high-level plenary meeting on addressing large movements of refugees and migrants,[1]

Welcoming the report of the Secretary-General on large movements of refugees and migrants submitted to the General Assembly[2] and the Secretary-General's decision to initiate a global campaign led by the United Nations to counter xenophobia,

Recalling that discrimination faced by asylum seekers, refugees and migrants, including women and children, has been an ongoing matter of concern to the Committee, as reflected, inter alia, in its country-specific concluding observations, general recommendation No. 30 (2004) on discrimination against non-citizens and decisions, statements and letters adopted under the early warning and urgent action procedure, in particular the 2015 statement on current migration crises,[3]

Noting that asylum seekers, refugees and migrants may already have been victims of human rights violations in their countries of origin,

Deeply concerned at the ever more precarious journeys being taken by asylum seekers, refugees and migrants in search of safety and dignity resulting in unnecessary deaths and suffering,

Alarmed by the toxic, discriminatory, racist and xenophobic narrative that is taking hold in many parts of the world based on fear and the manipulation of that fear by politicians and the media,

1. Appeals to all Member States and international intergovernmental organizations to ensure that solutions aimed at addressing large movements of refugees and migrants are grounded in and guided by international human rights norms and standards, in particular the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens, and the set of principles and practical guidance on the protection of human rights in large and/or mixed movements developed by the Office of the United Nations High Commissioner for Human Rights;

2. Acknowledges the commitment made by States to combat all forms of racial discrimination by ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, recalls the responsibilities of States elaborated in the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens and reminds States of their responsibilities as parties to the Convention to:

[1] Assembly resolution 70/290.
[2] A/70/59.
[3] A/70/18, para. 15.

(a) Ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent or national or ethnic origin;

(b) Take steps to address xenophobic attitudes and behaviour towards non-citizens, in particular racist hate speech, violence and hate crimes, including by promptly investigating allegations and, where appropriate, prosecuting and punishing the perpetrators with sanctions commensurate with the gravity of the offence;

(c) Ensure that non-citizens enjoy equal protection and recognition before the law, including access to effective legal remedies and the right of victims to seek just and adequate reparation for any damage suffered as a result of discriminatory behaviour;

(d) Take resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the grounds of race, colour, descent, and national or ethnic origin, members of 'non-citizen' population groups, especially by politicians, public officials, educators and the media, on the Internet and in society at large;

(e) Combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights;

(f) Ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment;

(g) Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;

3. *Emphasizes* the importance of considering asylum seekers, refugees and migrants first and foremost as human beings endowed with fundamental rights who also make positive and essential contributions in societies and communities when their rights are protected, and that the adoption of measures based on principles of non-discrimination, equality and justice is essential to creating stable and peaceful societies that will reap positive results for humanity as a whole."