



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Seventy-fifth session
3 - 28 August 2009

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

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

AZERBAIJAN

1. The Committee considered the consolidated fifth and sixth periodic reports of Azerbaijan (CERD/C/AZE/6) at its 1946th and 1947th meetings (CERD/C/SR/1946 and CERD/C/SR/1947), held on 11th and 12th August 2009. At its 1968th meeting (CERD/C/SR/1968), held on 26 August 2009, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the fifth and sixth joint periodic report of Azerbaijan (CERD/C/AZE/6), which has been prepared in conformity with the reporting guidelines. The Committee was encouraged by the attendance of the high-ranking delegation and expresses its appreciation for the opportunity to continue its dialogue with the State party. The Committee, while expressing its satisfaction with the updated information provided orally by the delegation, would have preferred the written replies in response to the list of issues to be submitted well in advance to allow timely translation into all the Committee's working languages.

B. Factors and difficulties impeding the implementation of the Convention

3. While acknowledging the efforts of the State party to find a peaceful solution to the conflict over Nagorny Karabakh, the Committee is deeply concerned about the persistence of this conflict and its negative influence, at the national and regional levels, on the exercise and full enjoyment of the rights enshrined in the Convention, in particular by internally displaced persons.

C. Positive aspects

4. The Committee commends the State party for the continuing process of bringing its domestic legislation into line with the provisions of the Convention and other human rights treaties. It welcomes the legislative, administrative and practical measures taken, as well as the constitutional amendments made, to improve the promotion and protection of human rights in the State party since the examination of the fourth periodic report, in particular:

(a) The “National Plan of Action for the Protection of Human Rights in the Republic of Azerbaijan”, approved by decree of the Head of State of 28 December 2006, aimed at inter alia strengthening the dialogue between cultures and cooperation among religions, protection and further development of the cultural heritage of national minorities, development of legal awareness and the legal culture of the population and the prohibition of discrimination;

(b) The amendment to article 25 of the Constitution to introduce the prohibition of the granting of privileges or denial of benefits to anyone on the basis of race, nationality, religion, language, sex or other grounds;

(c) The ratification by the State party in January 2009 of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, as well as of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(d) The measures undertaken by the State party to simplify migration procedures, such as the presidential decree of 4 March 2009 on the application of the “single window” principle, the establishment by Decree 560 (2007) of the State Migration Service, the cancellation of entry-exit visas for foreigners and stateless persons who have received permission for temporary and permanent residence in the State party, and the preparation of a draft migration code, which the Committee hopes will be fully consistent with the rights recognized by the Convention and other international human rights treaties;

(e) The efforts undertaken by the State party to promote a culture of religious tolerance, as already emphasized in the report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, on her mission to Azerbaijan (A/HRC/4/21/Add.2);

(f) The reforms undertaken in the judiciary and in particular the progress made during the reporting period, with regard to the amendment of the Judges Act, the adoption of the

Judicial Council Act, the establishment of the statute of the Judges' Selection Committee and the Code of Ethics for Judges;

(g) The activities carried out by the Ombudsperson's Office to raise awareness with regard to provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the opening of regional offices of the Ombudsperson in different districts of Azerbaijan, namely in Quba, Sheki, Ganja and Jalilabad;

(h) The progress made in combating trafficking in human beings, through the adoption of the Law on Combating Human Trafficking in 2005, the amendment of the Criminal Code in 2005, the adoption of the National Plan of Action of the Republic of Azerbaijan on Combating Trafficking in Human Beings for the period 2009-2013 and the creation of a relief fund for victims of human trafficking.

D. Principal subjects of concern and recommendations

5. While noting that significant progress has been made by the State party in protecting the economic, social and cultural rights of persons affected by internal displacement, as well as asylum-seekers and refugees, the Committee is still concerned that asylum-seekers, refugees and internally displaced persons continue to experience discrimination in the areas of employment, education, housing and health. The Committee notes with concern that internally displaced women and children remain in a particularly vulnerable and marginalized situation. The Committee further observes that, while the State party generally endeavours to comply with the standards of the Convention relating to the status of refugees, some asylum-seekers, including Russian citizens from Chechnya, are allegedly excluded from the refugee determination procedure of the State party.

The Committee calls upon the State party to ensure the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention for all groups of the population. The Committee requests the State party to include, in its next periodic report, information on measures taken in this regard, and draws the attention of the State party to its general recommendation No. 30 (2004) on discrimination against non-citizens. Furthermore, the Committee requests the State party:

(a) **To ensure equal opportunities for displaced persons, and to allow for their enhanced participation in the formulation of State policies and programmes concerning their interests, in particular with regard to the planning of new settlements, improved access to employment, housing, health care and quality education, and measures to encourage mixed schooling with local children. In this respect, it recommends the State party pay special attention to the situation of women and children;**

(b) **To ensure that all refugees and asylum-seekers receive equal treatment and to remedy the difficulties encountered by some asylum-seekers, including Russian**

citizens from Chechnya, in accessing refugee status determination procedures and residence registration (*propiska*) in order to access employment, health, and other social and economic rights. The Committee also recommends that the State party consider granting a temporary form of protection for persons who are requesting refugee status under the 1951 Convention Relating to the Status of Refugees, but who nonetheless are in need of international protection during consideration of their request. The Committee also recommends that the State party provide training to public officials and law enforcement officers with the aim of avoiding any tendency towards discriminatory conduct.

6. The Committee, while commending the efforts of the State party to reduce poverty, including through adoption of the Targeted State Social Assistance Act, which entered into force on 1 January 2006, remains concerned about significant disparities in the enjoyment of economic, social and cultural rights that persist in the State party and particularly affect ethnic groups in rural and remote mountainous areas (art. 5 (e)).

The Committee recalls that a low level of economic and social development in areas inhabited by certain ethnic groups as compared with the rest of the population might be an indication of de facto discrimination, even if it is not the result of deliberate Government policies. The Committee therefore recommends that the State party conduct studies with a view to assessing and evaluating the level of enjoyment of economic, social and cultural rights by different ethnic groups and provide statistics disaggregated by ethnic group on political participation and the standard of living of the population in its next periodic report.

7. While acknowledging the efforts of the State party to combat human trafficking, including foreign victims, especially through adoption of the National Plan of Action on Combating Trafficking in Human Beings (2009-2013) and the creation of a relief fund for victims of human trafficking, the Committee is concerned that human trafficking remains a serious problem (art. 5).

The Committee requests that the State party effectively implement the National Plan of Action to Combat Trafficking in Persons and ensure that the Law on Combating Trafficking in Persons is fully enforced and that perpetrators are effectively prosecuted and punished. It recommends that the State party address the root causes of trafficking by increasing its efforts to improve the economic situation of typical victim groups, in particular of women, thereby eliminating their vulnerability to exploitation and traffickers. The Committee also recommends that the State party take measures for the rehabilitation and social integration of victims of exploitation and trafficking.

8. The Committee, while recognizing the adoption of a wide range of anti-discrimination policies by the State party is concerned that a certain number of those policies and projects, such as the National Strategy on Increasing Transparency and Combating Corruption, the National Plan of Action to Combat Trafficking in Persons, the project on modernization of the justice and

judicial system, as well as State programmes for the provision and realization of social and economic rights, have yet to be implemented or evaluated (art. 2).

The Committee urges the State party to fully implement all anti-discrimination policies that have been adopted, to closely monitor and evaluate progress in implementation of the Convention at national and local levels and to make an assessment of the impact of the measures already implemented in its next periodic report.

9. The Committee notes with concern the information provided by the State party that there have been very few complaints or court decisions concerning acts of racial discrimination during the reporting period. The Committee also notes that, among the high number of 42,260 applications from citizens received by the Ombudsperson during the reporting period, there were no complaints of racial discrimination. (arts. 2 (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. 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 whether the poor number 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.

10. The Committee is concerned that the application of articles 147, 148 and 283 of the Criminal Code regarding insult, defamation and the incitement to racial, national and religious hatred has resulted in the sentencing of a number of journalists to long prison terms or the imposition of heavy fines for defamation (art. 5 d)).

While taking note of the information provided by the delegation that the issue of defamation and, in particular, the possibility of confining it to civil rather than criminal law, was the subject of extensive discussions within the Government and society at large, the Committee encourages the State party to ensure that the legislation on defamation and similar offences is brought into line with international treaties. The Committee calls upon the State party to reconsider its criminal legislation on defamation, especially articles 147, 148 and 283 of the Criminal Code in order to ensure its conformity with the Convention and requests the State party to provide in its next report updated information in this regard.

11. While taking note of the explanation given by the State party that information on nationality is neither indicated in the identity documents of individuals nor requested in applications for employment, the Committee nevertheless regrets the lack of up-to-date disaggregated statistical data regarding the de facto enjoyment by members of ethnic minorities, as well as by non-citizens, asylum-seekers and refugees, of the rights protected under the Convention.

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 the data obtained in the census conducted in April 2009 in its next periodic 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).

12. The Committee regrets the lack of information relating to the representation of the various ethnic groups in Parliament and other elected bodies, as well as their participation in public bodies (art. 5 c)).

The Committee invites the State party to promote representation of the various ethnic groups in parliament and other elected and public bodies, and requests the State party to include relevant information in the next periodic report.

13. While taking note of ongoing discussions on the creation of an advisory council of national minorities, the Committee is concerned about the current absence of consultative structures for representatives of minorities in the State party that would allow for their active participation in the legislative process and strengthen the cooperation between public bodies and representatives of national minorities (art. 5 f)).

The State party should ensure that members of minorities enjoy their rights in full compliance with the Convention and taking also into account the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The State party should create a national consultative organ, including representatives of minorities, in order to better take into account their specific needs and to enable them to take part in the decision-making processes in respect of issues of interest and policies that affect them.

14. The Committee takes note of the reforms undertaken and the progress made in the modernization of the judicial system during the reporting period, in particular the application of the European Convention for the Protection of Human Rights and Fundamental Freedoms and of the jurisprudence of the European Court of Human Rights in the administration of justice. However, the Committee regrets that the International Convention on the Elimination of all Forms of Racial Discrimination and other international human rights treaties do not seem to have been taken into account to the same degree (art. 6).

The Committee calls on the State party to take additional measures to disseminate information about the International Convention on the Elimination of all Forms of

Racial Discrimination and the Committee's general recommendations, and to implement programmes for prosecutors, judges, the Ombudsperson and lawyers that cover all relevant aspects of the Convention. It further encourages the State party to monitor the results of such efforts and to include in its next periodic report detailed statistics on court cases in which the Convention was invoked.

15. The Committee is concerned at allegations of persistent hostile attitudes on the part of the general public towards ethnic Armenians living in Azerbaijan. The Committee notes with concern that the information provided by the State party in this regard contrasts with information received from numerous national and international non-governmental sources. (art. 2)

The Committee recommends that the State party take steps to prevent and combat hostile attitudes towards ethnic Armenians living in its territory, including through information campaigns and education of the general public. Furthermore, in light of its general recommendation No. 19 (1995) on article 3 of the Covenant, the Committee encourages the State party to monitor all tendencies which may give rise to racial or ethnic de facto segregation and endeavor to combat the negative consequences of such tendencies.

16. The Committee, while noting the information provided by the delegation, remains of the view that measures taken to educate the public, law enforcement officials, members of political parties and media professionals on the provisions of the Convention could be strengthened (art. 7).

The Committee suggests that the State party consider intensifying human rights education and training of law enforcement officers, teachers, social workers and public servants, 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.

17. While welcoming the extensive information provided by the State party on measures to ensure the teaching of and in minority languages, the Committee is concerned that in spite of approximately 30,000 ethnic Armenians living on the territory of Azerbaijan, no information was provided by the State party as to whether education and instruction are provided in the Armenian language in schools (art. 5 e)).

The Committee recommends that the State party continue its efforts for the preservation and development of minority languages and encourages it to establish a public school network offering teaching of and in such languages, including the Armenian language. The State party is requested to provide information on this subject in its next report.

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.

19. The Committee recommends that the State party take into account the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as 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 recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

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 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.

22. The Committee recommends that the State party's reports 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 official and other commonly used languages, as appropriate.

23. 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 5, 7 and 15 above.

24. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 6, 9 and 10, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

25. The Committee recommends that the State party submit its seventh, eighth and ninth periodic reports in a single document, due on 15 September 2013, 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.

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