



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-sixth session
21 February-11 March 2005

**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 third and fourth periodic reports of Azerbaijan, submitted in one document (CERD/C/440/Add.1), at its 1691st and 1692nd meetings (CERD/C/SR.1691 and 1692), held on 4 and 7 March 2005. At its 1700th meeting (CERD/C/SR.1700), held on 11 March 2005, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and the additional oral information provided by the delegation. The Committee has been encouraged by the attendance of the high-ranking delegation and expresses its appreciation for the opportunity to continue its dialogue with the State party. However, it regrets that the report as a whole does not contain sufficient information on the practical implementation of the Convention.

B. Positive aspects

3. The Committee notes with satisfaction the enactment of new legislation containing anti-discrimination provisions, including the Criminal Code and the Code of Criminal Procedure.

4. The Committee welcomes the adoption, in June 2002, of the Constitutional Law on the Implementation of Human Rights and Freedoms in the Republic of Azerbaijan.
5. The Committee welcomes the establishment of the Office of the Human Rights Commissioner of the Republic of Azerbaijan, pursuant to the Constitutional Act on the Ombudsman, adopted in December 2001.
6. The Committee welcomes the State party's ratification of the Framework Convention for the Protection of National Minorities in 2000, the European Convention for the Protection of Human Rights and Fundamental Freedoms in 2002 and the European Social Charter in 2004.
7. The Committee notes with satisfaction that the State party has commenced the implementation of the refugee status determination procedure, in the framework of cooperation with UNHCR.
8. The Committee welcomes the adoption of the National Poverty Reduction Strategy for 2003-2005, which targets internally displaced persons as a vulnerable group.
9. The Committee notes with satisfaction that the State party has made the optional declaration recognizing the Committee's competence to receive communications under article 14 of the Convention in 2001.

D. Concerns and recommendations

10. The Committee notes the position of the State party that, despite the negative effects of the conflict in the Nagorny-Karabakh region, persons of Armenian origin do not experience discrimination in Azerbaijan. However, the Committee is concerned that, according to reports, incidents of racial discrimination against Armenians occur, and that a majority of the Armenians residing in Azerbaijan prefer to conceal their ethnic identity in order to avoid being discriminated against (Convention, art. 2).

The Committee encourages the State party to continue to monitor all tendencies that give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. In particular, the Committee recommends to the State party that it conduct studies with a view to effectively assessing and evaluating occurrences of racial discrimination, in particular against ethnic Armenians.

11. While welcoming the information provided by the delegation on counter-trafficking measures taken by the State party, including the adoption, in 2004, of the National Plan of Action to combat trafficking in human beings and the establishment within the police service of a department to assist victims of trafficking, the Committee is concerned that human trafficking, including of foreign women, men and children, remains a serious problem in the State party, which is a country of origin and a transit point (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on human trafficking and continue to undertake necessary legislative and policy measures to prevent and combat trafficking. The Committee urges the State party to provide support and assistance to victims, wherever possible

in their own language. The Committee also recommends to the State party that it continue to make determined efforts to prosecute the perpetrators, and underlines the paramount importance of prompt and impartial investigations.

12. The Committee expresses its concern that asylum-seekers, refugees, stateless persons, displaced persons and long-term residents residing in Azerbaijan experience discrimination in the areas of employment, education, housing and health (art. 5).

The Committee urges the State party to continue taking necessary measures in accordance with article 5 of the Convention to ensure equal opportunities for full enjoyment of their economic, social and cultural rights by asylum-seekers, refugees, stateless persons, displaced persons and long-term residents of Azerbaijan. 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 XXX on discrimination against non-citizens.

13. The Committee 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 are excluded by the refugee determination procedure of the State party. The Committee is concerned that persons who are not formally recognized as refugees may still require subsidiary forms of protection, given that they are unable to return to their countries for compelling reasons such as existing situations of armed conflict. The Committee also expresses concern about information on cases of refoulement of refugees (art. 5 (b)).

The Committee requests the State party to ensure that its asylum procedures do not discriminate in purpose or effect between asylum-seekers on the basis of race, colour or ethnic or national origin, in line with section VI of its general recommendation XXX. The Committee recommends that the State party consider adopting subsidiary forms of protection guaranteeing the right to remain for persons who are not formally recognized as refugees but who may still require protection, and to continue its cooperation with UNHCR. The Committee further recommends that the State party, when proceeding with the return of asylum-seekers to their countries, respect the principle of non-refoulement.

14. While welcoming the information provided on minority groups, the Committee regrets the insufficiency of information on the participation of these groups in the elaboration of cultural and educational policies. It is also concerned at the lack of programmes to support minority languages, and that those languages are not used in the educational system to an extent commensurate to the proportion of the different ethnic communities represented in the State party's population (art. 5).

The Committee invites the State party to facilitate the participation of ethnic minorities in the elaboration of cultural and educational policies. The Committee also recommends to the State party that it take the necessary measures to create favourable conditions that will enable persons belonging to minorities to develop their culture, language, religion, traditions and customs, and to learn or to have instruction in their mother tongue. The Committee invites the State party to include in its next periodic report detailed information on this issue.

15. The Committee notes with concern the State party's explanation that despite the legislative provisions providing for the right to effective protection and remedies, no cases invoking the relevant provisions of the Criminal Code concerning racial discrimination have been brought before the courts (art. 6).

The Committee requests the State party to include in its next periodic report statistical information on prosecutions launched, and penalties imposed, in cases of offences that relate to racial discrimination and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be largely an indication of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, or insufficient will by the authorities to prosecute. It is therefore essential to provide for the relevant provisions in national legislation and to inform the public of the availability of all legal remedies in the field of racial discrimination.

16. The Committee regrets the lack of information on measures taken by the State party to enhance better understanding, respect and tolerance among different ethnic groups living in Azerbaijan, in particular, on programmes adopted, if any, to ensure intercultural education (art. 7).

The Committee recommends that the State party adopt measures to promote intercultural understanding and education between ethnic groups, and provide more detailed information on this issue in its next periodic report.

17. 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 encourages the State party to expand and strengthen existing efforts regarding human rights education. Furthermore, particular attention should be paid to general recommendation XIII, according to which law enforcement officials should receive specific training to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to race, colour, descent or national or ethnic origin.

18. The Committee notes the lack of sufficient information on efforts taken by the State party to involve non-governmental organizations in the preparation of the periodic report and is concerned about the ability of civil society organizations, including organizations working to combat racial discrimination, to operate freely.

The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends to the State party that it promote the free functioning of civil society organizations that contribute to promoting human rights and combating racial discrimination. Furthermore,

the Committee encourages the State party to consult with civil society groups working in the area of combating racial discrimination in the elaboration of its next periodic report.

19. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the General Assembly in resolution 58/160.
20. The Committee recommends that the State party continue to take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level, in particular the preparation and implementation of the national plan of action.
21. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.
22. The State party should within one year provide information on its response to the Committee's recommendations contained in paragraphs 10 and 13 (paragraph 1 of rule 65 of the rules of procedure). The Committee recommends that the State party submit its fifth periodic report jointly with its sixth periodic report on 15 September 2007, and that it address in this report all points raised in the present concluding observations.
