



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1354th meeting

Held at the Palais des Nations, Geneva, on Monday, 16 August 1999, at 3 p.m.

Chairman: Mr. Aboul Nasr

later: Mr. Sherifis

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The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 4) *(continued)*

Initial report of Kyrgyzstan (CERD/C/326/Add.1; HRI/CORE/1/Add.101)

1. *At the invitation of the Chairman, the representative of Kyrgyzstan took a place at the Committee table.*

2. **Mrs. Sabyrova** (Kyrgyzstan), introducing the initial report of Kyrgyzstan on the implementation of the Convention, said that it had been prepared with the assistance of a broad spectrum of State bodies, ethnic communities and non-governmental organizations in order to provide as much information as possible. Given its multi-ethnic nature, the Kyrgyz Republic took care to ensure that the principle of equality of all segments of the population was taken into account in official policy, in accordance with the Constitution.

3. As stated in paragraph 5 of the report, ethnically based organizations had been created that were devoted to protecting the interests of ethnic groups. On the proposal of the heads of these organizations, the President of the Republic had convened a council of national minorities (*kurultai*) to encourage inter-ethnic relations. This initiative had expanded to include the creation of the Assembly of the People of Kyrgyzstan (APK). The Assembly, whose objectives were enumerated in paragraph 6 of the report, had proved an effective instrument for civil peace in the Kyrgyz Republic. The Assembly currently comprised 28 associations and cultural centres belonging to ethnic groups.

4. As part of the country's legal reforms, new laws had been passed to strengthen the application of the principle of non-discrimination. The Penal Code and Code of Civil Procedure contained provisions guaranteeing the equality before the law of all Kyrgyz citizens. Current legislation prohibited any restrictions on electoral rights on the basis of racial or ethnic origin. The Constitution guaranteed everyone the right of property and the right of inheritance, as well as freedom of opinion and of expression. Under the programme known as "Kyrgyzstan: Our Common Home", the Government provided appropriate educational and cultural facilities to ethnic groups in the areas where they were concentrated.

5. Despite the difficulties encountered on the path to a market economy, the Government was resolutely attached to democratic values. Thus, over the eight years since the country's independence, the fundamental rights of the Kyrgyz people, as enshrined in the Constitution, had continued to expand and to be strengthened.

6. **Mr. Valencia-Rodriguez** (Country Rapporteur) welcomed the complete, precise and informative nature of the State party's report and asked if it had been prepared by the interdepartmental commission created under the Government decree of 27 June 1997. He said that in a country with more than 80 nationalities, implementation of the Convention was particularly important, and noted the provisions of the Constitution and other national legal instruments that prohibited racial discrimination, guaranteed the same rights to all citizens and enshrined the principle of the equality of all before the law.

7. Nonetheless, the report of the United States Department of State on human rights practices in the Kyrgyz Republic in 1998 mentioned cases of discrimination against citizens who did not belong to the Kyrgyz ethnic group. Russian-speaking citizens who did not speak Kyrgyz complained in particular of difficulties in obtaining public posts at a certain level. He asked for clarifications on this matter. He also wished to know if tables 2 and 3 of the report, which presented the Kyrgyz population by nationality and native language, included stateless persons and refugees. He requested further information on the level of

socio-economic development of ethnic minorities based on such primary indicators as per capita income, unemployment, literacy, school enrolment and infant mortality.

8. Noting with satisfaction the creation of organizations to protect the interests of ethnic groups and uphold their linguistic and cultural identities, as stated in paragraphs 5 ff. of the report, he asked how the members of the *kurultai* were appointed and what the level of representation of ethnic groups was in the APK. He also requested more information on the achievements of the Human Rights Commission created by presidential decree of 5 July 1997 and on measures taken in accordance with article 2, paragraph 2, of the Convention to ensure the development and protection of ethnic minorities.

9. The information provided in the report on the application of article 4 of the Convention was detailed and pertinent. Articles 134, 299 and 373 of the Penal Code; the 1997 Guarantees and Freedom of Access to Information Act; and the 1992 Mass Media Act proved that Kyrgyzstan was meeting the requirements of article 4a). He would, however, like to see article 3 of the Public Associations Act, which was referred to in paragraph 10 of the report, in order to ensure that it indeed met the requirements of article 4b) of the Convention.

10. The report provided detailed information on each of the rights under article 5 of the Convention. Some problems should be noted in that regard, such as the low level of wages and pensions, inflation, the state of the health care system, unemployment and the shortage of suitable housing, which risked compromising the effective implementation of the Convention. With respect to equality before the law and justice, paragraph 12 of the report stated that interpreters' fees were paid by the State, except where interpretation duties were performed as an official assignment. What exactly was meant by "official assignment", and who paid the interpreters' fees in such cases? Concerning article 5c) of the Convention, he welcomed the fact that the main ethnic groups were represented in Parliament. It would be interesting to know whether the law called for a specific number of seats to be allocated to the representatives of minorities, or whether the situation was the result of the normal electoral process.

11. He wondered what the criteria were for obtaining citizenship and whether foreigners and stateless persons had the right to vote and to stand for election. He asked for the delegation's reactions to the statement in the report of the United States Department of State that women and minority groups, especially Russians and Uzbeks, were underrepresented in the Government and in political organizations. How did the system which required an official authorization (*propiska*) for settling and working in particular regions of the country affect the situation of ethnic minority groups? With regard to the right to work, he asked whether the provisions of article 11 of the Labour Code, which were cited in paragraph 22 of the report, had already given rise to legal proceedings and, if so, how the amount of the compensation had been determined. He also wished to know if there were differences between ethnic groups with respect to the exercise of the right to housing enshrined in article 33 of the Constitution and in the Housing Code of the Kyrgyz Republic.

12. According to paragraph 24 of the report, entitlement to receive a State pension extended to all insured citizens who resided on State territory, whether they were Kyrgyz citizens, foreign nationals or stateless persons. Given that this was the sole reference to foreigners and stateless persons, he wondered whether the latter also enjoyed the other rights under article 5 of the Convention. If so, the measures taken to guarantee the right of minorities to education should be welcomed.

13. With regard to article 6 of the Convention, he asked for further information on the provisions guaranteeing effective remedies in cases of discrimination and on the mechanisms that had been set up for that purpose. He would also like to have clarification about the Osh events referred to in paragraph 28 of the report, and particularly about the

causes of the incidents, the behaviour of the law enforcement officers, the sanctions imposed on the perpetrators and the reparation granted to the victims. The report of the United States Department of State implied that the legal system favoured persons belonging to the Kyrgyz ethnic group and that the “Elders’ Courts” tended to impose cruel and degrading punishment. He would appreciate receiving more information on these points.

14. As concerned the application of article 7 of the Convention, he welcomed the measures referred to in paragraph 29 of the report and paragraphs 69 to 78 of the core document, and asked the Kyrgyz Government to continue taking steps to promote tolerance and mutual understanding. The dissemination of the Convention, if possible in the four most widely spoken languages of Kyrgyzstan, should be ensured so that the general public, and members of ethnic minorities in particular, would be informed about it.

15. Mr. Valencia-Rodriguez asked the State party to consider making the declaration provided for under article 14 of the Convention to recognize the competence of the Committee to consider individual communications, and to consider ratifying the amendment to article 8, paragraph 6, of the Convention, which had been adopted by the States parties.

16. **Mr. Garvalov** stressed the exhaustive nature of the initial report. The annex tables were particularly useful and informative about the situation of the numerous minorities residing in Kyrgyz territory. It was surprising to learn from table 2 that members of the Bulgarian, Hungarian and Polish communities were proportionally very unlikely to declare themselves as speakers of their respective native languages. Could the delegation clarify this point? He noted that Kyrgyz, although it was the official language, remained underdeveloped in technical fields, and he wondered what steps the Government planned to remedy the situation. He asked for more information on any measures envisaged by the State party to end the ethnic tension that had been under way between Uzbeks and ethnic Kyrgyz since 1990. He would also like further information on the means of acquiring Kyrgyz nationality.

17. **Ms. Zou** said that the initial report was excellent, particularly because of the quantity and the detailed nature of the information provided.

18. She did, however, note that Kyrgyzstan, which was a multi-ethnic country where ethnic minorities represented about 40 per cent of the population, and which appeared to have problems with inter-ethnic relations, had apparently not followed the recommendations under article 2 of the Convention, asking States parties to adopt effective laws and measures for dealing with racism and racial discrimination. Did the State party plan to promulgate such laws?

19. With regard to public education, paragraph 25 of the report stated that “basic education” was free and compulsory. What exactly did that mean? Was the reference to primary education, secondary education of the first cycle, or secondary education of the second cycle? How many years of school were compulsory in Kyrgyzstan? How many children undertook this compulsory schooling? Annex table 10 of the report referred to students under contract. Did the term “under contract” mean that students had to reimburse the State for several years after receiving their diploma?

20. Paragraph 28 of the report stated that 88 persons had been convicted following the “Osh events”, but how many Kyrgyz persons and how many Uzbek persons did that include? Why were no statistics provided for the years after 1994? Was it really possible that the Kyrgyz Supreme Court had heard and ruled on only one case linked to these incidents in 1994? What was the recent situation with regard to racial discrimination?

21. With respect to the application of article 7 of the Convention, she recalled that all information on the training of law enforcement personnel should be included in the

information on the application of article 7. She hoped that the next report would provide more information on this point.

22. **Mr. Diaconu** said that the initial report contained numerous statistical data on the population, which was rarely to be found in the periodic reports of States parties. He welcomed the fact that Kyrgyzstan had many laws covering almost all the issues dealt with by the Convention, and that numerous seminars and workshops had been held in the country on inter-ethnic relations. The close cooperation between national institutions and the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe (OSCE) should also be welcomed.

23. With respect to the report, he asked when the Constitution had been adopted and whether it was the Constitution of Kyrgyzstan or of the USSR. Had the Constitution referred to in paragraph 21 of the report been adopted prior to 1991, i.e., prior to the dissolution of the Soviet Union? If so, the authorities might consider drafting a new constitution. What was the status of the Convention? Did it take precedence over domestic law?

24. Concerning the data on the number of cases heard by the criminal courts on infringements of ethnic and racial equality (paragraph 28), he asked the delegation to explain why, generally speaking, more sentences had been handed down than cases heard. Had there been other events since 1990 involving ethnic Kyrgyz and Uzbeks? Could the delegation further explain the apparent discrepancy between the number of Kyrgyz students (more than 66,000) enrolled in public institutions of higher education and the number of Russian students (just over 10,000) (table 10)?

25. **Mr. de Gouttes** welcomed the quality of the initial report, particularly its solid statistics. The information in paragraphs 5 to 7 on the Assembly of the People was interesting, as were the Assembly's close ties with the OSCE High Commissioner for National Minorities. The country's policy on minority languages (paragraphs 3 and 25) was praiseworthy, as was the legislation which met most of the requirements of article 4 of the Convention (paragraphs 9 to 11). He also welcomed the legal statistics on proceedings brought for infringements of ethnic and racial equality, as presented in paragraph 28, even though — as Mr. Diaconu had pointed out — it was surprising that more sentences had been handed down than cases heard. Those statistics dealt exclusively with the so-called "Osh" events, but not with other acts of racial or ethnic discrimination.

26. The Committee had received very little information about Kyrgyzstan from NGOs, and he therefore wished to know what the National Human Rights Commission had accomplished. Could the delegation confirm or deny the information contained in the 1999 report of Amnesty International, according to which the Government had adopted a series of constitutional reforms that had been approved by referendum in October 1998, calling for the privatization of land? If this information was correct, what would be, or was, the impact on the country's ethnic populations?

27. In addition, what steps did the Government plan to take to publicize the Convention and to publish the Committee's conclusions? What was Kyrgyzstan's position on the optional declaration under article 14 of the Convention with respect to individual communications?

28. **Mr. Yutzis** said that the initial report, which was extremely comprehensive, complied fully with the Committee's guidelines and thus enabled the question of racial discrimination in Kyrgyzstan to be studied in greater detail.

29. He welcomed the information provided in paragraph 28 of the report on the clashes between ethnic Kyrgyz and Uzbeks in 1990. The fact that there had been 88 convictions was proof of the importance the authorities attached to the problem. Quite often, conflicts

of that type did not disappear from a society simply because people had been convicted; in general there was some underlying socio-cultural or psycho-social problem that required follow-up. The next report should provide more details on the situation between the two groups.

30. More information should also be furnished on the privatization of land and on how that measure risked affecting the people living on the lands to be privatized. As concerned the State employment policy, what was meant by the statement that, under the Kyrgyz Constitution, “everyone has the right to economic freedom” (paragraph 22)? How did the Government ensure job safety for the most vulnerable groups of the population? What exactly was the “guaranteed basic level of service at each level of medical assistance” (paragraph 24(b))?

31. **Mr. Sherifis** asked why the Ukrainians, who made up 1.5 per cent of the country’s population, were not represented in the Kyrgyz Parliament and why the Russians, who accounted for almost 15 per cent, had only two deputies (paragraph 14 and table 1). Was it because the members of these minorities were not interested in the country’s domestic policy? Paragraph 27 of the report stated that both foreigners and Kyrgyz citizens had the right of access to all public services and places; but what exactly were the civil rights of foreigners? Could they vote and stand for election at the local level, as was the case in many other States?

32. Was there an institution in charge of publicizing the objectives of the Convention and its text? Did Kyrgyzstan plan to make the declaration under article 14 of the Convention?

33. **Mr. Banton** said that table 6 did not support the contention advanced by Mr. Valencia-Rodriguez that Kyrgyzstan was a multi-ethnic melting pot. Only 3.1 per cent of the men in the country’s largest population group — ethnic Kyrgyz — married women from another ethnic group. By contrast, the high rates of marriage between Ukrainian and Belarusian men with women from other ethnic groups — 85.7 per cent and 93.4 per cent, respectively — could be explained by the fact that Ukrainian men married Belarusian women and Belarusian men married Ukrainian women. These two ethnic groups had very similar cultures — cultures that were more similar than those of Belarusians and Uzbeks, for example.

34. Although one or two Committee experts tended to believe it was the State’s duty to ensure that each ethnic group preserved its own identity, many governments argued that if members of one ethnic group wished to marry members of another, they were free to do so, and that it was not the concern of the authorities. In any event, it would be interesting to know how the State party attempted to preserve the identity of each ethnic group living in its territory.

35. **The Chairman** said that was an interesting remark. However, although some societies might be a melting pot, some differences — and religious differences in particular — were insurmountable. Mixed marriages could sometimes create more problems from a religious standpoint than they solved.

36. **Mr. Shahi** said the report was excellent. It was undoubtedly one of the best reports to have been presented to the Committee and was full of interesting information, particularly with regard to the country’s demographic makeup. Kyrgyzstan was to be congratulated.

37. He nonetheless wished to see a breakdown of the 88 convictions arising from the Osh events of 1990. Were those convicted all Uzbeks, all Kyrgyz, or from both ethnic groups? Table 6, on the proportions of inter-ethnic marriages, was interesting, but did the

100-per-cent rates for Georgians, Lithuanians, Turkmen and Estonians mean that all men from these ethnic groups married outside their ethnic group?

38. **Mrs. Sabyrova** (Kyrgyzstan) thanked the Committee members for their interest in the situation in her country. The initial report necessarily contained many details on that situation. In subsequent reports they would endeavour to respond to the experts' requests for information and clarification.

39. **Mr. Valencia-Rodriguez** (Country Rapporteur), at the Chairman request, summarized the Committee's observations on the initial report of the State party. He said it was full of information and complied with the Committee's guidelines. The Committee welcomed the candour with which the delegation had approached the inter-ethnic problems in Kyrgyzstan. It was, however, essential that the State party promulgate laws banning racial discrimination, and provide more information on the 1990 incidents involving ethnic Kyrgyz and Uzbeks. The quality of the statistical information had been welcomed, but additional information had been requested on the representation of the various ethnic groups in Parliament. The high percentage of inter-ethnic marriages in Kyrgyzstan had also been stressed.

40. *The Committee thus concluded its consideration of the initial report of Kyrgyzstan.*

41. *The representative of Kyrgyzstan withdrew.*

Tenth to thirteenth periodic reports of Haiti

Draft concluding observations of the Committee on the tenth to thirteenth periodic reports of Haiti (CERD/C/55/Misc.26/Rev.2 – English only)

42. **The Chairman** invited the Committee members to consider the draft concluding observations on the tenth to thirteenth periodic reports of Haiti.

Paragraphs 1 and 2

43. *Paragraphs 1 and 2 were adopted.*

Paragraph 3

44. **Mr. Garvalov** proposed adding the phrase "ethnic or racial" after the word "groups" in the second sentence so as to be consistent with the terminology of the Convention.

45. *Paragraph 3, as amended, was adopted.*

Paragraph 4

46. *Paragraph 4 was adopted.*

Paragraph 5

47. **Mr. Diaconu** said that it would be better to replace the phrase "and includes" by "including".

48. *Paragraph 5, as amended, was adopted.*

Paragraph 6

49. *Paragraph 6 was adopted.*

Paragraph 7

50. **Mr. Aboul-Nasr** said that the wording of the second sentence might offend the State party.
51. **The Chairman** proposed replacing the words “could be” with “may possibly be”.
52. *Paragraph 7, as amended, was adopted.*

Paragraphs 8 and 9

53. *Paragraphs 8 and 9 were adopted.*

Paragraph 10

54. **Mr. van Boven** said that he did not think it useful to mention article 4 of the Convention in this paragraph.
55. **Mr. Banton** said that the word “enshrined” was a bit strong when referring to the provisions of articles and that the preposition “of” would suffice.
56. *Paragraph 10, as amended, was adopted.*

Paragraph 11

57. **Mr. Rechetov** said that it would be better to end the sentence after the words “official language”.
58. *Paragraph 11, as amended, was adopted.*

Paragraphs 12 to 14

59. *Paragraphs 12 to 14 were adopted.*

Paragraph 15

60. **Mr. Banton** proposed that, with regard to the rights under article 5, the word “enshrined” should be replaced by “listed”.
61. **Mr. Diaconu** proposed replacing “limitations” with “restrictions” so as to be more consistent with the terminology of the Convention.
62. **Mr. Rechetov** said that the use of the term “foreigners” without a modifier might not be in conformity with article 1 of the Convention.
63. **The Chairman** suggested that Mr. Rechetov revise the wording of the paragraph with Mr. Diaconu in order to bring it into line with the Convention.
64. *Paragraph 15 was adopted, subject to a change in the wording.*

Paragraphs 16 to 19

65. *Paragraphs 16 to 19 were adopted.*
66. *The draft concluding observations of the Committee on the tenth to thirteen periodic reports of Haiti as a whole, as orally amended, were adopted.*

Organizational and other matters (agenda item 2) (*continued*)

Revision of General Guidelines regarding the form and contents of reports to be submitted by States parties under article 9 of the Convention (continued)
(CERD/C/55/Misc.3 – English only)

67. *Mr. Sherifis took the Chair.*

Proposed revisions (CERD/C/55/Misc.3, pages 1 to 3)

Proposed new paragraph for inclusion after paragraph 8 of the Guidelines

68. In order to take account of the concern expressed by Ms. McDougall at a previous meeting, **Mr. Banton** proposed that the last sentence of the new paragraph be amended as follows:

“Reporting officers are asked to bear in mind the circumstances of such persons, women and men, and to cite any available social indicators of forms of disadvantage that may be linked with racial discrimination.”

69. **Mr. Diaconu** suggested that the words “women and men”, once they had been included in the new paragraph, should be deleted from the following paragraphs and subparagraphs.

70. **The Chairman** endorsed the suggestion.

71. *The new paragraph, as amended, was adopted.*

Amendments to paragraph 10

Subparagraph e) iv

72. *Subparagraph e) iv was adopted.*

Subparagraph e) v

73. **Mr. Banton** said that the words “quoted at pp 278-79 of the *Manual*” could be deleted.

74. Following an exchange of views with **Mr. Aboul-Nasr**, he proposed amending the subparagraph as follows:

“It will help the Committee if the report can 1) indicate any variations in the levels of educational and training attainment between members of different ethnic groups.”

75. *Subparagraph e) v, as amended, was adopted.*

Subparagraph e) vi

76. **Mr. Diaconu** proposed adding the word “ethnic” in the fourth line, between “other” and “groups”.

77. *Subparagraph e) vi, as amended, was adopted.*

Subparagraph f)

78. **The Chairman** and **Mr. de Gouttes** said they favoured language that was most consistent with the Convention. **Mr. Banton** then proposed the following wording:

“In many countries, complaints are voiced about racial discrimination that denies the right of access to any place or service intended for use by the general public, such as transports, hotels, restaurants, cafés, theatres and parks.”

79. *Subparagraph f), as amended, was adopted.*

80. *The proposed revisions as contained in document CERD/C/55/Misc.3 (pages 1 to 3), as orally amended, were adopted.*

81. **Mr. Aboul-Nasr** said that if there had been a vote, he would have abstained, but he did not oppose the adoption of a decision by consensus. He asked that his position be reflected in the summary record for the meeting.

82. **The Chairman** said that this request would be duly taken into account. Another amendment, proposed by Ms. McDougall, remained to be considered at a coming meeting, in her presence.

Additional note by Mr. Banton (CEFE/C/55/Misc.3, pages 3 and 4)

83. Following an exchange of views between **Mr. Banton** and **Mr. Diaconu, Mr. Valencia-Rodriguez** provided the following clarification: The Office of the High Commissioner for Human Rights had asked the members of each treaty body to prepare a section on the form and contents of reports to be prepared by States parties based on the relevant Guidelines of each body. The different sections had been grouped together in the Manual on Human Rights Reporting. The initial text, and therefore the authoritative version, remained that of the Guidelines, of which the Manual was only an enabling document.

84. **Mr. Banton** said that the Committee, in the conclusions it adopted after considering the reports of States parties, could envisage referring to both the Manual and the Guidelines. He then recalled the proposals contained in paragraph 2 of the additional note on the presentation and translation of the Manual.

85. **The Chairman** proposed that the decision on these proposals should be postponed to a subsequent meeting.

86. *It was so decided.*

The meeting rose at 6 p.m.