



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
20 September 2011

Original: English

Committee on the Elimination of Racial Discrimination

Seventy-ninth session

8 August–2 September 2011

Consideration of reports submitted by States parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Georgia

1. The Committee considered the fourth and fifth periodic reports of Georgia (CERD/C/GEO/4-5), submitted in one document, at its 2102nd and 2103rd meetings (CERD/C/SR.2102 and 2103), held on 16 and 17 August 2011. At its 2121st and 2126th meetings (CERD/C/SR.2121 and 2126), held on 30 August and 1 September 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fourth and fifth periodic reports of the State party in conformity with the Committee's reporting guidelines. The Committee expresses its appreciation for the detailed replies provided by the delegation during the consideration of the report and welcomes the open, substantive and constructive dialogue with the large delegation.

B. Positive aspects

3. The Committee welcomes the State party's ongoing efforts to revise its legislation in order to ensure greater protection of human rights and give effect to the Convention, including: amendments in 2010 to the Constitution of Georgia; the amendment in 2007 to the National Law on Refugees; the adoption on 11 July 2007 of the Law of Georgia on the Repatriation of Forcefully Displaced Persons from the Soviet Socialist Republic by the Former USSR in the 1940s; amendments to the Organic Law on Citizenship of Georgia in December 2009; amendments to the Law on Higher Education in 2009; and the amendment on 5 July 2011 to the Civil Code of Georgia.

4. The Committee notes with interest that since the consideration of the combined second and third periodic reports of the State party (CERD/C/461/Add.1), the latter has acceded to or ratified international and regional instruments such as:

- (a) United Nations Convention against Transnational Organized Crime (on 5 September 2006), as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention;
- (b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (on 3 August 2010);
- (c) European Framework Convention for the Protection of National Minorities (in force since 1 April 2006).

5. The Committee also welcomes the State party's efforts to amend its policies, programmes and administrative measures to ensure further the protection of human rights and the implementation of the Convention, in particular:

- (a) The development of the Action Plan for 2009-2014 on National Minorities' Integration through Multilingual Education.
- (b) The adoption, in May 2009, of the National Concept for Tolerance and Civil Integration and its Action Plan and the establishment on 3 July 2009 of an Inter-Institutional Commission to implement it;
- (c) The establishment, in 2007, of the State Strategy for Internally Displaced Persons, and the related Action Plan on 28 May 2009.

6. The Committee notes with interest the extended competencies given to the Public Defender and encourages the State party to consult with and involve him or her in all activities concerning human rights.

7. The Committee also notes with interest the importance given to culture and the support given to the cultural activities of ethnic minorities and encourages the State party to continue along this path.

C. Factors and difficulties impeding the implementation of the Convention

8. Recalling paragraph 4 of its previous concluding observations (CERD/C/GEO/CO/3), the Committee reiterates that it acknowledges that Georgia has been confronted with ethnic and political conflicts in Abkhazia, Georgia and South Ossetia, Georgia since independence. The Committee notes that Abkhazia and South Ossetia continue to be outside the effective control of the State party, which made it therefore unable to implement the Convention in these territories.

9. In addition, the armed conflict of 2008 in South Ossetia and military activities in Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons (IDPs) and refugees. The Security Council adopted resolution 1866 (2009) asking the parties in conflict to facilitate the free movement of refugees and IDPs. The Committee notes the State party's position that the obligation for implementing the Convention in South Ossetia and Abkhazia belongs to a neighbouring country which has effective control over those territories. The Committee notes that it has in the past taken the view that States that have effective control over a territory have the responsibility under international law and the spirit of the Convention for implementing the Convention.

D. Concerns and recommendations

10. Despite a number of draft laws that had been put forward for public discussion, the Committee reiterates its concern that the State party has not yet adopted the draft legislation to protect minorities (art. 2).

The Committee encourages the State party to speed up the adoption of specific legislation to protect minorities.

11. The Committee is concerned that the Criminal Code does not prohibit racist discourse in general, the dissemination of ideas based on racial superiority and expressions of racial hatred, and incitement to racial discrimination. It is also concerned that legislation does not provide for a clear definition of direct and indirect discrimination and that racist organizations are not banned by law. In addition, the Committee notes that racial, religious, national or ethnic grounds are regarded as aggravating circumstances only in connection with serious crimes (art. 4 (a) and (b)).

The Committee recommends that the State party:

- (a) Amend the Criminal Code to include specific provisions prohibiting racist discourse, the dissemination of ideas based on racial superiority and expressions of racial hatred, and incitement to racial discrimination, and banning racist organizations;
- (b) Introduce a clear definition of direct and indirect discrimination into the country's civil and administrative laws;
- (c) Recognize racial, religious, national or ethnic grounds as a general aggravating circumstance, in connection with all crimes and offences.

12. The Committee is concerned at the limited number of cases of racial discrimination considered by the judiciary or other competent authorities (arts. 2, 4 and 6).

Recalling its general recommendations No. 26 (2000) on article 6 of the Convention and 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:

- (a) Conduct awareness-raising campaigns among the public at large about the existence of criminal law provisions penalizing racially motivated acts and encourage victims of such acts to lodge complaints;
- (b) Enhance its efforts to improve access to justice and the functioning of the judicial system, including by providing training to police, prosecutors, judges and professionals in the judicial system on the application of laws on racist offences;
- (c) Provide updated information concerning the application by courts of anti-discrimination provisions and statistical data on the number and nature of reported crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by the age, gender and national or ethnic origin of victims.

13. The Committee is concerned at allegations of arbitrary arrests and ill-treatment of members of minority groups and foreigners, whose vulnerability stems in part from their lack of knowledge of the Georgian language, perpetrated by law-enforcement officials (arts. 5 and 6).

Recalling its general recommendation 13 (1993) on training law enforcement officials in the protection of human rights, the Committee recommends that the State party look into such allegations and take the necessary measures so that law enforcement officials fully respect the human rights of members of minority groups and foreigners.

It also encourages the recruitment into the police force of persons belonging to ethnic minorities, especially in regions largely inhabited by minorities.

14. The Committee is concerned at reports of stereotyping, prejudice and misconceptions with regard to members of ethnic and religious minorities expressed through the media, by politicians and in school textbooks. It is also concerned at reports that after the 2008 armed conflict members of some minorities have been depicted as “enemies” (art. 5).

The Committee recommends that, in addition to legal and policy levels, the State party make every effort to build mutual confidence and reconciliation between the majority and minority populations and promote a peaceful and tolerant coexistence in inter-ethnic relations through political discourse, awareness-raising campaigns and by removing derogatory or insulting references to minorities in school textbooks. The Committee also recommends that the State party ratify the Council of Europe Convention on Cybercrime, which it has signed, as well as the Additional Protocol thereto.

15. While noting the efforts deployed in this field, including some special measures, the Committee is concerned by the low level of knowledge of Georgian as a second language among minorities and the obstacle that this represents to their integration into society, education, employment, and representation in State institutions and public administration. It is also concerned at the insufficient number of trained teachers of the Georgian language (art. 5).

The Committee recommends that the level of knowledge of Georgian by minorities be further enhanced through the teaching of Georgian as a second language in educational institutions at all levels and that efforts be made to ensure greater political representation and participation of members of minority groups, especially the Azeri and Armenian communities, in public life. The Committee invites the State party to engage in dialogue with these groups and civil society to facilitate their integration and to enhance the quality of training of teachers of the Georgian language at all levels as well as bilingual education in minority areas, increasing the number of Language Houses and improving the curriculum of the Zurab Zhvania school of civic administration for minorities. The Committee also recommends that the State party ratify the European Charter for Regional or Minority Languages.

16. While welcoming the projects for development undertaken by the Government in areas inhabited by the Azeri and Armenian communities to connect these areas with the centre of the country, the Committee is concerned that members of these communities living in remote rural areas suffer from a lack of adequate infrastructure, including roads, transport, water, electricity and natural gas supplies. The Committee is concerned that the land reform undertaken in the 1990s deprived many villagers of their agricultural land, mostly in favour of city dwellers belonging to the majority population, and that names of localities could be changed without consulting local inhabitants. The Committee is also concerned by the apparent lack of effective preservation of the cultural heritage and monuments of minorities (art. 5).

The Committee recommends that the State party:

- (a) Continue and enhance its efforts to build and improve the road, transport, water, electricity and other infrastructure in remote areas inhabited by minorities;**
- (b) Review and consider reversing the negative repercussions of past land reforms and consider any changes of geographic names of localities in consultation and agreement with the local population;**

(c) Take the necessary measures for the preservation of the cultural heritage and monuments of minorities.

17. The Committee is concerned that the Roma population of Georgia remains marginalized, continues to live in precarious economic and social conditions, has low representation in public life and that many of them do not possess identity documents. The Committee is also concerned at the low rate of enrolment of Roma children in schools and at reports that children, most of whom are of Roma origin, are living in the streets of Tbilisi (art. 5).

In the light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Ensure the issuance of birth certificates and other documents to all members of the Roma minority;

(b) Enhance its efforts to improve the employment, social services, health and housing conditions of the Roma, alleviate their state of marginalization and poverty and ensure their greater representation in public life;

(c) Make every effort to increase the rate of school enrolment of Roma children and take effective measures to protect Roma children living and working in the streets, including by ensuring shelters and providing them with recovery and social reintegration services.

18. While noting the efforts made by the State party to facilitate the repatriation of persons deported by the Union of Soviet Socialist Republics in 1944, among them the Meskhetian Turks, including through improved procedures, the Committee is concerned at reports that only a small number of them have been granted repatriation status. The Committee notes that Meskhetian Turks have never been compensated for their loss of property. The Committee is also concerned at reports that the population in regions to which the Meskhetian Turks would be returning, mainly the Armenian minority, may be hostile to them (art. 5).

The Committee recommends that the State party adopt a comprehensive strategy to integrate persons deported, among them the Meskhetian community, in accordance with the principle of self-identification, including by facilitating the documentation requirements, in appropriate languages, and translation procedures and promptly reviewing applications for repatriation. Recalling its general recommendation No. 8 (1990) on identification with a particular racial or ethnic group, the Committee recommends that the State party consider providing compensation to the repatriated persons for the loss of property when they were deported. The Committee also recommends that the State party take measures to create an administrative environment that facilitates and speeds up the repatriation process, and to sensitize the population of the regions to which Meskhetian Turks will be returning in order to promote inter-ethnic harmony.

19. The Committee is concerned at the lack of disaggregated data with regard to minorities, including the numerically smaller groups such as the Kists, Kurds, Jews, Greeks and Assyrians, as well as IDPs and refugees. The Committee is also concerned that a large number of children, in particular from minority groups in remote parts of the country, have not been registered at birth and do not have birth certificates (art. 5).

The Committee recommends that after the 2012 census, the State party provide it with disaggregated information on the composition of society, including on persons belonging to numerically smaller minorities and the inhabitants of the Autonomous Republic of Ajara as well as IDPs and refugees, as well as information regarding their access to health and in particular on infant and maternal mortality among minorities, their level

of income, their representation in important State jobs and disparities with regard to education. The Committee recommends that the State party take all the necessary measures to register the births of children, in particular those from minorities, born in remote parts of the country and provide them with birth certificates.

20. The Committee welcomes the measures taken to alleviate the situation of IDPs, but is concerned that they continue to face obstacles to integration and that some experience dire living conditions due to poverty, that some of them are expected to remain in protracted displacement, while others have not been able to register and obtain IDP status. In addition, the Committee is concerned about the vulnerability of internally displaced women and girls, including those from ethnic minorities, in particular regarding abduction for the purpose of marriage, as well as with regard to education, health and employment (art. 5).

Recalling its general recommendation No. 22 (1996) on refugees and displaced persons, the Committee recommends that the State party continue its efforts to improve the situation of IDPs, including those displaced after the 2008 conflict, in particular with regard to integration, decent durable living conditions, and food. It urges the State party to regulate the situation of those IDPs who will not be able to return soon and to place special emphasis on the employment, job creation and income-generating schemes for all IDPs, with special programmes and strategies regarding internally displaced women, including those belonging to ethnic minorities.

21. While noting that legal safeguards exist for non-citizens and stateless persons, the Committee is concerned that a number of stateless persons have documentation problems and thereby no access to public services. It is also concerned that certain rights in the economic and social field are explicitly confined to citizens of Georgia. The Committee notes that the State party has not acceded to the 1954 Convention relating to the Status of Stateless Persons or to the 1961 Convention on the Reduction of Statelessness (art. 5).

In the light of its general recommendations No. 11 (1993) and No. 30 (2004) on non-citizens, the Committee recommends that the State party take all legislative and other measures to avoid discrimination against non-citizens and stateless persons. It also recommends that steps be taken to solve the documentation issues of stateless persons so that they can be registered, including through mobile registration centres, and have access to public services. While welcoming the State party's recent commitment to accede to the 1954 Convention relating to the Status of Stateless Persons, the Committee recommends that the State party also accede to the 1961 Convention on the Reduction of Statelessness.

22. The Committee notes that the Draft Law on Refugee and Humanitarian Status would improve the access of asylum-seekers to health care, education and employment, but that it has not been adopted to date (art. 5).

The Committee recommends that the State party bring its Law on Refugees into conformity with international refugee law and standards through the adoption of the Draft Law on Refugee and Humanitarian Status (also known as the Draft Law on Refugees and Temporary Asylum-Seekers).

23. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

24. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the

Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

25. The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

26. The Committee recommends that the State party consult and expand 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.

27. 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. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

28. 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.

29. Noting that the State Party submitted its core document in 2000, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

30. 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 concluding observations, on its follow-up to the recommendations contained in paragraphs 17, 21 and 22 above.

31. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 10, 11, 14 and 18 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

32. The Committee recommends that the State party submit its sixth, seventh and eighth periodic reports, in a single document, by 2 July 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).