



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
4 April 2011

Original: English

Committee on the Elimination of Racial Discrimination

Seventy-eighth session

14 February – 11 March 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

Armenia

1. The Committee considered the fifth and sixth periodic reports of Armenia (CERD/C/ARM/5-6), submitted in one document, at its 2071st and 2072nd meetings (CERD/C/SR.2071 and CERD/C/SR.2072), held on 28 February 2011 and 1 March 2011. At its 2086th meeting, held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report of the State party, which is in conformity with the Committee's guidelines, as well as the supplementary information provided orally by the delegation. The Committee also welcomes the resumption of dialogue with the State party and finds encouraging the frank and constructive responses provided to the questions and comments raised thereby.

B. Positive aspects

3. The Committee welcomes the legislative, institutional and other measures taken by the State party since the examination of the combined third and fourth periodic reports of the State party in 2002, to combat racial discrimination and to promote tolerance and understanding among the various ethnic and national groups of its population. In particular, it notes with interest:

(a) The constitutional prohibition of discrimination on the grounds of, among others, race, colour, ethnic origin, genetic features and circumstances of personal nature;

(b) The inclusion of the prohibition of racial discrimination in a number of laws regulating various aspects of public life, such as in the Law on Television and Radio;

(c) The provision of the Criminal Code establishing ethnic and racial motives as circumstances aggravating liability and punishment;

(d) The establishment of various instruments with capacity for dialogue and consultation with national minorities, such as the Coordinating Council for National and Cultural Organizations of National Minorities and the Committee on National Minorities of the Public Council, and the creation of the Department of National Minorities and Religious Affairs which, among others, implements the Government's policy on national minorities;

(e) The efforts undertaken by the State party to promote the preservation, dissemination and development of the cultural heritage of national minorities and to provide education of national languages and literature for minorities; and

(f) The inclusion of human rights, issues concerning discrimination and intolerance as well as matters relating to national and racial minorities in the continuing and formal education programmes for the police.

4. The Committee welcomes the creation in 2004 of the institution of the Human Rights Defender which is fully compliant with the Paris Principles and has mandate to consider complaints concerning violations of rights contained in the Convention.

5. The Committee commends the State party for its active role with respect to the Durban Conference and the preparatory works leading to the Review Conference.

6. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities in 2010 and the Optional Protocols to the Convention on the Rights of the Child in 2005, to the Convention against Torture in 2006 and to the Convention on the Elimination of All forms of Discrimination against Women in 2006.

7. The Committee also welcomes the ratification by the State party of human rights treaties prohibiting discrimination within the Council of Europe and the Commonwealth of Independent States.

C. Concerns and recommendations

8. While noting that the State party's Constitution accords primacy to international instruments over domestic laws and that, according to the State party's statement, provisions of international treaties have been invoked in courts, the Committee remains concerned that as many provisions of the Convention are not self-executing, the legislation of the State party does not currently give full effect to all articles of the Convention.

The Committee particularly draws the attention of the State party to the absence of a legal prohibition of organizations involved in activities promoting and inciting racial discrimination, as required by article 4(b) of the Convention. Moreover, the Committee regrets that it has not been given information on legal provisions relating to racial segregation. (arts. 2, 3 and 4)

The Committee urges the State party to continue to bring its legislation into line with the Convention and asks the State party to include in the next periodic report the relevant extracts of the laws covering the activities proscribed in articles 3 and 4 of the Convention, as well as information on any judicial decision relating thereto.

Moreover, the Committee encourages the State party to strengthen efforts to ensure the effective implementation of the laws adopted in recent years to combat racial discrimination and to monitor that they achieve the objectives for which they have been adopted.

9. The Committee notes the absence of complaints of acts of racial discrimination lodged with courts and other relevant authorities during the reporting period. (art. 6)

Recalling its general recommendation No. 31 (2005) on the functioning and administration of the criminal justice, the Committee is of the view that absence of complaints of acts of racial discrimination cannot be understood as absence of racism or racial discrimination and that it can be the result of lack of awareness of their rights by victims, fear of reprisals, complex judicial procedures limiting the effective access to remedies by victims, lack of confidence in the judicial authorities or unwillingness of competent authorities to institute legal proceedings.

The Committee therefore calls on the State party to:

(a) **Raise awareness of what is understood by racial discrimination, as defined by article 1 of the Convention and the State party's Constitution, among the population in general and minorities in particular;**

(b) **Inform the public, and particularly vulnerable groups, such as minorities, non-nationals, refugees and asylum-seekers, of legislation on racial discrimination and of avenues of redress available;**

(c) **Consider reviewing the rules of proof in the State party's legislation by reversing or sharing its burden where complaints of racial discrimination are pursued under civil law, in view of the difficulty in substantiating claims of racial discrimination.**

The Committee requests that the State party provide in its next periodic report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings.

10. While noting the relatively homogenous makeup of the population of the State party, the Committee still regrets the absence of reliable data on the actual composition of its population.

The Committee requests the State party, on the basis of the census to be held in 2011 and with respect to the principle of self-identification, to include in its next periodic report up-to-date data on the composition of its population, including Assyrians, Azeris, Roma and other small ethnic groups. In this regard, the Committee refers the State party to paragraphs 11 and 12 of its reporting guidelines (CERD/C/2007/1) and to general recommendations No. 4 (1973) and No. 24 (1999) respectively on demographic composition of the population and on reporting of persons belonging to different races, national/ethnic groups. The Committee further requests data on women from those groups.

11. The Committee regrets that, while the political situation within the South Caucasus region has brought a substantial number of refugees to the State party and has displaced a sizable number of persons internally, little information on the situation of these groups has been provided in the State party's report and during the dialogue. (art. 5)

The Committee calls on the State party to include in its next report detailed information on the situation of refugees and internally displaced persons on its territory, particularly in relation to the effective enjoyment of rights under article 5 of the Convention, including an update on the housing problem.

12. While noting the extensive information provided in the State party's report on the legal provisions guaranteeing non-discrimination in the enjoyment of rights contained in article 5 of the Convention, the Committee regrets the lack of disaggregated statistical data regarding the de facto enjoyment by national minorities and non-citizens, of the rights

protected under the Convention, as without such data, it is difficult to assess the socio-economic situation of different groups in the State party. (arts. 1 and 5)

Recalling the importance of accurate and up-to-date data on the socio-economic situation of the various groups of the population in understanding the situation of all ethnic groups and other vulnerable groups, and in identifying indirect discriminatory situations, the Committee calls upon the State party to provide data on the situation of all ethnic and vulnerable groups, including non-citizens, bearing in mind the Committee's general recommendation No. 30 (2009) on non-citizens, mainly in employment, education and housing.

The Committee also requests that the State party include in the report information on special measures adopted to secure to any disadvantaged group the equal enjoyment of the rights outlined in article 5. The Committee refers the State party to its general recommendation No. 32 (2009) on the meaning and the scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.

13. While noting with interest the various mechanisms in place to support the dialogue with minorities, the Committee remains concerned that these mechanisms are of consultative nature and cannot substitute the participation of minorities in public life. The Committee further regrets the lack of information on participation of minorities in elected and public bodies. (arts. 2 and 5)

Recalling the State party's obligation of results in this area, the Committee is of the view that legal guarantees of equal right to be elected are not sufficient as regards political participation of minorities and reiterates its previous recommendation calling on the State party to secure due representation of minorities in the National Assembly and other public bodies (A/57/18, para. 278), including by the adoption of special measures.

14. The Committee notes with concern the existence in the State party of a political organization which has called for the expulsion of some ethnic groups from the territory of the State party. The Committee also notes the information provided by the State party as regards the legal actions brought against the leader of the organization. (art. 4)

The Committee urges the State party to comply with its obligation to outlaw any organization which promotes or incites racial discrimination, as prescribed by article 4(b) of the Convention.

15. While commending the efforts undertaken by the State party in the area of education for national minorities, including the provision of education in their languages and courses on their native languages and literature, the Committee regrets that effective enjoyment of the right to education is not guaranteed for all children from national minorities and other vulnerable groups, such as refugees and asylum-seekers, and that very few of them achieve higher education despite the implementation of measures such as affording priority to candidates from national minorities who have passed the university entry exams. (art. 5)

The Committee encourages the State party to strengthen efforts to ensure effective access to education and calls on the State party to:

(a) Expand the implementation of the sample curriculum of general education schools of national minorities and the training of national minorities' teachers;

(b) Consider providing language support in pre-school education in areas with compact minority population so as to facilitate the integration of minority pupils into mainstream education;

(c) Increase efforts to promote access to higher education for children from national minorities and other vulnerable groups.

The Committee also requests the State party to provide detailed information, including disaggregated statistics on enrolment in primary, secondary and higher education of members of national minorities and other vulnerable groups in its next periodic report.

16. The Committee notes with concern that while the State party is aware of conservative customs determining relationships between men and women, and between adults and children, within the Yezidi and Kurdish communities, which impede the equal enjoyment and exercise of rights, its programmes and activities in favour of national minorities have failed to address these issues. (art. 5)

Recalling the State party's obligation to guarantee the right of everyone to equality in the enjoyment of human rights, the Committee calls on the State party to take account of the need to address discriminatory customs in its work with national minorities. In particular, the Committee calls on the State party to take account, when implementing the Gender Policy Concept Paper, of the double discrimination faced by women from minorities. In this regard, the Committee draws the attention of the State party to its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

17. The Committee takes note of racial incidents as reported by the Human Rights Defender and the media in the State party. The Committee further notes that information on prevailing sentiment of suspicion towards foreigners among its population may be indicative of xenophobic attitude and prejudice. (art. 7)

The Committee calls on the State party to remain vigilant regarding any racial incidents and to pursue its policy of combating any manifestation of discrimination against individuals and groups. The Committee also calls on the State party to carry out preventive action including by conducting a study on its population's attitude towards foreigners and through education of the general public in a spirit of tolerance, understanding and respect for diversity. In this regard, while acknowledging the provision of human rights education in schools, the Committee encourages the State party to pay particular attention to the role of the media in human rights education.

18. The Committee recommends that the State party take account of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, in the preparation and implementation of the National Programme on Human Rights Protection. The Committee refers the State party to its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference.

19. 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 of 18 December 2009.

20. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the international human rights treaties to which it is not a party, in particular treaties whose provisions have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families..

21. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.
22. 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 resolutions 61/148 and 63/243, in which the General Assembly strongly urges 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.
23. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report and the implementation of the Committee's recommendations.
24. 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.
25. Noting that the State party submitted its core document in 1995, 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/MC/2006/3).
26. 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 13, 14 and 17 above.
27. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 8, 9, 12 and 15, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.
28. The Committee recommends that the State party submit its seventh to eleventh periodic reports in a single document, due on 23 July 2014, 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. Noting that the combined fifth and sixth reports were six years overdue, the Committee invites the State party to observe the deadlines set for the submission of its reports in the future. 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 (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).