



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
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2-19 August 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**

GEORGIA

1. The Committee considered the second to third periodic reports of Georgia, which were due on 2 July 2002 and 2004 respectively, submitted as one document (CERD/C/461/Add.1), at its 1705th and 1706th meetings (CERD/C/SR.1705 and 1706), held on 3 and 4 August 2005. At its 1721st meeting, held on 15 August 2005, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party and the additional information provided by the delegation. The Committee also appreciates the presence of a high-ranking delegation and the constructive and frank dialogue with the State party.

3. The Committee expresses its satisfaction with the quality of the report, its conformity with the reporting guidelines of the Committee and notes as very positive the fact that the State party submitted the report in a timely manner.

B. Factors and difficulties impeding the implementation of the Convention

4. The Committee acknowledges that Georgia has been confronted with ethnic and political conflicts in Abkhazia and South Ossetia since independence. Due to the lack of governmental authority, the State party has difficulty in exercising its jurisdiction with regard to the protection of human rights and the implementation of the Convention in those regions.

5. In addition, the conflicts in South Ossetia and Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons and refugees. Several recommendations have been issued by the Security Council to facilitate the free movement of refugees and internally displaced persons.

C. Positive aspects

6. The Committee acknowledges that the State party is a multi-ethnic country, with numerous and varied communities, and appreciates the efforts made by the State party to provide information relating to the ethnic composition of the population as well as other statistical data related to minorities.

7. The Committee notes with satisfaction that the State party is continuing to make important progress in the area of legislative reform and that some of its previous recommendations were taken into consideration during this process.

8. The Committee also notes with satisfaction that the State party has made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications and expects that the public at large will be appropriately informed of this fact.

9. The Committee also expresses its satisfaction at recent measures taken by the State party to strengthen the participation of ethnic minorities in its political institutions.

D. Concerns and recommendations

10. While noting the adoption of a detailed “plan of action to strengthen protection of the rights and freedoms of various population groups of Georgia for the period 2003-2005”, the Committee regrets that the draft legislation to protect minorities has not yet been adopted (art. 2).

The Committee recommends that the State party provide detailed information on the implementation and results of the “plan of action to strengthen protection of the rights and freedoms of various population groups of Georgia for the period 2003-2005” and encourages the State party to adopt specific legislation to protect minorities.

11. While taking note of the introduction of section 1 of article 142 of the Criminal Code regarding acts of racial discrimination, the Committee is concerned over the insufficiency of specific penal provisions implementing article 4 (a) and (b) of the Convention in the domestic legislation of the State party (art. 4).

The Committee recommends that the State party adopt legislation, in the light of its general recommendation XV, to ensure a full and adequate implementation of article 4 (a) and (b) of the Convention in its domestic legislation, in particular declaring an offence punishable by law the dissemination of ideas based on racial superiority or hatred and any assistance to racist activities, including financing, as well as declaring illegal organizations and propaganda activities which promote and incite racial discrimination and recognizing, as an offence punishable by law, participation in such organizations or activities.

12. While welcoming the information provided on the situation on several minorities of the State party, the Committee regrets the lack of detailed information on the situation of some vulnerable minority groups, in particular the Roma, and their enjoyment of all human rights (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on the situation of all minority groups, including the most vulnerable ones and in particular the Roma, and in this connection, draws the attention of the State party to its general recommendation XXVII on discrimination against Roma.

13. The Committee notes the absence of legislation regarding the status of languages, the lack of sufficient knowledge of the Georgian language by minority groups and of effective measures to remedy this situation as well as to increase the use of ethnic minority languages in the public administration (art. 5).

The Committee recommends that the State party adopt legislation on the status of languages as well as effective measures to improve the knowledge of the Georgian language amongst minority groups and to increase the use of ethnic minority languages in the public administration.

14. The Committee notes that the representation of the different ethnic communities of the population of the State party in State institutions and in the public administration is disproportionately low, which leads to their reduced participation in public life (art. 5).

The Committee recommends that the State party include further information in its next periodic report regarding the ethnic composition of State institutions and of the public administration and adopt practical measures to ensure that ethnic minorities are represented in the public administration and in those institutions, and to enhance their participation in public life, including the elaboration of cultural and educational policies relating to them.

15. While acknowledging the commitment of the State party to repatriate and integrate Meskhetians who were expelled from Georgia in 1944 as well as the recent establishment of a State Commission on the Repatriation of Meskhetians, the Committee notes with concern that no specific measures have yet been taken to address this issue (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on the situation of Meskhetians and take the appropriate measures to facilitate their return and their acquisition of Georgian citizenship, including the adoption of the necessary framework legislation to this effect, which has been under drafting since 1999.

16. The Committee regrets the lack of information in the State party report on the fundamental rights of non-citizens temporarily or permanently residing in Georgia, regarding the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention (art. 5).

Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party ensure the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention, in particular their access to justice and right to health.

17. While noting the new legal measures adopted regarding refugees, the Committee remains concerned that some refugees and asylum-seekers of particular ethnicities have been forcibly returned to countries where there are substantial grounds for believing that they may suffer serious human rights violations (art. 5).

The Committee recommends that the State party provide detailed information on the situation of refugees and asylum-seekers, on the legal protection provided to them including their rights to legal assistance and judicial appeal against deportation orders, and on the legal basis for deportation. The Committee also urges the State party to ensure, in accordance with article 5 (b) of the Convention, that no refugees are forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations. The Committee encourages the State party to ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

18. Religious questions are of relevance to the Committee when they are linked with issues of ethnicity and racial discrimination. In this connection, and while acknowledging the effort made by the State party to fight ethno-religious violence, the Committee remains concerned about the situation of ethno-religious minorities, such as the Yezidi-Kurds (art. 5).

The Committee recommends that the State party include detailed information in its next periodic report on the situation of ethno-religious minorities, and that it adopt the bill on freedom of conscience and religion designed to protect those minorities against discrimination and, in particular, against acts of violence.

19. Poverty is a human rights issue and a factor which impedes the full enjoyment by all, including vulnerable minority groups, of those rights. The Committee is concerned about the extreme poverty in which part of the population of the State party lives and its effects on the most vulnerable minority groups for the enjoyment of their human rights and regrets that the State party's programme to reduce poverty and stimulate economic growth has not yet been adopted (art. 5).

The Committee recommends that the State party include information in its next periodic report on its economic situation, in particular regarding minorities, and adopt all the necessary measures to reduce poverty, especially regarding the most vulnerable minority groups, and stimulate economic growth, including the adoption of a national plan to this effect.

20. The Committee is concerned by allegations of arbitrary arrests and detention, excessive use of force by law enforcement officials, and ill-treatment in police custody of members of minority groups and non-citizens, and about the lack of investigation of those cases (arts. 5 and 6).

The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment, especially of members of ethnic groups and non-citizens; perpetrators should be prosecuted and punished, and victims granted compensation.

21. While noting the existence of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding the independence, competencies and effectiveness of this institution (art. 6).

The Committee recommends that the State party provide in its next periodic report detailed information on the independence, competencies and effective results of the activities of the Ombudsman. Furthermore, the Committee encourages the State party to strengthen this institution and provide it with adequate resources so as to allow it to function as an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

22. While noting with appreciation that the Convention may be invoked directly before the national courts, the Committee notes the lack of information on complaints of racial discrimination, the absence of court cases regarding racial discrimination in the State party and the need for further dissemination of the Convention amongst State authorities (arts. 6 and 7).

The Committee recommends that the State party ensure that the lack of court cases on racial discrimination is not the result of victims' lack of awareness of their rights or limited financial means, individuals' lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges that the State party ensure that appropriate provisions are available in national legislation regarding effective protection and remedies against violation of the Convention and disseminate to the public information on the legal remedies available against those violations as widely as possible. Further, the Committee also recommends that the State party take measures to sensitize police and judicial officers about the Convention.

23. The Committee recommends that the State party 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.

24. The Committee requests that the State party's report and the present concluding observations be widely disseminated throughout the State party in the appropriate languages, and that the next periodic report be brought to the attention of non-governmental organizations operating in the country before being submitted to the Committee.

25. 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 59/176 of 20 December 2004, 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.

26. Pursuant to article 9, paragraph 1, of the Convention, and article 65 of the Committee's rules of procedure, as amended, the Committee requests the State party to inform it of its implementation of the recommendations contained in paragraphs 238, 244 and 245 above, within one year of the adoption of the present conclusions.

27. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report on 2 July 2008, and that it address all points raised in the present concluding observations.
