



**International Convention
On the Elimination
Of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/TKM/CO/5
1 November 2005

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-seventh session
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**

TURKMENISTAN

1. The Committee considered the initial to fifth periodic reports of Turkmenistan, submitted in one document (CERD/C/441/Add.1), at its 1717th and 1718th meetings (CERD/C/SR.1717 and 1718), held on 11 and 12 August 2005. At its 1725th and 1727th meetings (CERD/C/SR.1725 and 1727), held on 17 and 18 August 2005, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by Turkmenistan and the opportunity thus offered to open a dialogue with the State party. It regrets, however, that the report, which lacks detailed information on the practical implementation of the Convention, does not fully comply with the reporting guidelines.

3. The Committee notes with deep concern the major contradictions between, on the one hand, consistent information from both intergovernmental and non-governmental sources relating to the existence of grave violations of the Convention in Turkmenistan, and, on the other hand, the sometimes categorical denials by the State party. The Committee stresses that the consideration of reports is designed to institute a constructive and sincere dialogue, and encourages the State party to increase its efforts to that end.

4. Noting that the report was about nine years overdue when submitted, the Committee invites the State party to respect the deadlines set for the submission of its future reports.

B. Positive aspects

5. The Committee appreciates the attendance of a high-level delegation and the efforts it made to respond to the numerous questions posed by Committee members. It notes the delegation's assurances relating to the willingness of the State party to pursue the dialogue with the Committee.
6. The Committee notes with satisfaction that the State party has ratified most of the United Nations core human rights treaties since independence.
7. The Committee appreciates the passing of a regulation in March 2005, on the implementation of refugee status determination, as well as the generous hosting of more than 10,000 refugees from Tajikistan on a prima facie basis.
8. The Committee welcomes the amendment of 2 November 2004 of the Criminal Code rescinding article 223/1, which stipulated criminal penalties for unregistered activities of public associations, including non-governmental organizations.

C. Concerns and recommendations

9. The Committee notes with concern the lack of consistent data relating to the ethnic composition of the population. It notes that the proportion of national and ethnic minorities in Turkmenistan seems to have significantly diminished between 1995 and 2005, but finds it difficult to interpret these figures, which may have resulted, at the same time, from an assimilation policy conducted by the State party, the emigration of many members of minority groups, and the alleged distortion of statistics by the State party so as to diminish the importance of minorities on its territory.

The Committee requests the State party to provide consistent information on the ethnic composition of its population.

10. The Committee notes that under article 6 of the Constitution, the State party recognizes the primacy of generally recognized norms of international law, but is concerned that the status of the Convention in domestic law remains unclear. It is further concerned about the existing gap between law and practice in Turkmenistan (art. 2).

The Committee recommends to the State party that it fully ensure the rule of law, which is indispensable to the implementation of the Convention, and that it provide more detailed information on the status of the Convention in domestic law.

11. The Committee is deeply concerned about reported instances of hate speech against national and ethnic minorities, including statements attributed to high-ranking government officials and public figures supporting an approach to Turkmen ethnic purity, which is reported to have a significant detrimental impact on the population given the severe restrictions on freedoms of opinion and expression impeding opposition to such discourses.

The Committee is further concerned that such speech is inconsistent with the fundamental principle of racial and ethnic equality underlying the Convention (art. 4).

The Committee urges the State party to abide by its obligation under article 4 (c) of the Convention not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination. The Committee wishes to receive more detailed information on the practical implementation of article 4 of the Convention in its entirety.

12. The Committee is deeply concerned by consistent information relating to the policy of “Turkmenization” conducted by the State party, and implemented through various measures in the field of employment, education and political life (arts. 2 and 5).

The Committee recalls that policies of forced assimilation amount to racial discrimination and constitute grave violations of the Convention. It urges the State party to respect and protect the existence and cultural identity of all national and ethnic minorities within its territory. The Committee wishes to receive detailed information on the measures adopted to that end, including those aimed at addressing the situation of the Baluchi minority, the existence of which as a distinct cultural community is reported to be at risk.

13. The Committee is concerned that, according to some information, and in the light of paragraph 2 (e) of General Assembly resolution 59/206 of 22 December 2004, national and ethnic minorities face severe restrictions on their participation in the labour force, in particular in public sector employment. It is particularly disturbed about reports relating to the removal of many non-ethnic Turkmen from State employment and to “third generation tests” imposed on persons wishing to access higher education and public sector employment (arts. 2 and 5).

The Committee invites the State party to verify whether “third generation tests” exist and to ensure the right to work without discrimination based on national or ethnic origin. The State party is requested to provide reliable statistical data on the effective participation of members of national minorities in the labour force, in particular in public sector employment.

14. The Committee notes with deep concern information that the State party has internally forcibly displaced populations, targeting in particular ethnic Uzbeks, to inhospitable parts of Turkmenistan. It is further concerned about reported restrictions on freedom of movement imposed through internal travel documents and special permits to travel to internal border regions, which have a particular impact on persons belonging to national and ethnic minorities (arts. 2 and 5).

The Committee requests the State party not to forcibly displace populations and to re-examine its policy in this regard. The State party is requested to provide information to the Committee about the number of individuals who have been

resettled under the terms of the 18 November 2002 Presidential Decree and relevant provisions of the Criminal Code, their ethnic origin, the dates and reasons for their resettlement, and their place of residence prior to and following resettlement. The Committee further recommends to the State party that it lift restrictions on freedom of movement having a disproportionate impact on members of national minorities.

15. The Committee is concerned about information that persons belonging to national and ethnic minorities are impeded from exercising their right to enjoy their own culture. In particular, it is concerned about the reported closure of minority cultural institutions and of numerous schools teaching in minority languages, in particular Uzbek, Russian, Kazakh and Armenian languages, and the reduced possibilities for the use of minority languages in the media (arts. 2 and 5).

The Committee recommends that the State party fully respect the cultural rights of persons belonging to national and ethnic minorities. In particular, the State party should consider reopening Uzbek, Russian, Kazakh, Armenian and other minority language schools. The Committee suggests that the State party reconsider the requirement that students belonging to national or ethnic minorities wear Turkmen national dress, and to provide more information on this issue. The State party should ensure that members of national and ethnic minorities are not discriminated against in their access to the media and have the possibility of creating and using their own media in their own language.

16. The Committee notes that, in 2003, the bilateral agreement between the Russian Federation and Turkmenistan on dual citizenship was repealed by the State party. It notes with concern that persons who chose Russian citizenship were allegedly required to leave the country rapidly (arts. 2 and 5).

The Committee, stressing that deprivation of citizenship on the basis of national or ethnic origin is a breach of the obligation to ensure non-discriminatory enjoyment of the right to nationality, urges the State party to refrain from adopting any policy that directly or indirectly leads to such deprivation. The Committee draws the attention of the State party to its general recommendation XXX on non-citizens and wishes to receive more detailed information on the number of affected persons and the practical consequences for them.

17. The Committee, while stressing the complex relationship between ethnicity and religion in Turkmenistan, notes with concern information that members of religious groups do not fully enjoy their rights to freedom of religion and that some religious confessions remain unregistered. It notes, however, the relaxation of registration rules in 2004.

The Committee recalls the State party's obligation to ensure that all persons enjoy their right to freedom of religion, without any discrimination based on national or ethnic origin, in accordance with article 5 (d) of the Convention.

The State party should accordingly respect the right of members of registered and unregistered religions to freely exercise their freedom of religion, and register religious groups who wish to be registered. Detailed information on religions actually registered in Turkmenistan should be provided to the Committee.

18. The Committee appreciates the announcement made by the State party that it will grant citizenship to about 16,000 refugees who have been residing in Turkmenistan for some years, and permanent resident status to 3,000 other refugees (art. 5). **The Committee encourages the State party to continue the naturalization process without discrimination based on ethnic origin. It recommends, in particular, that the same treatment be granted to refugees of Turkmen, Uzbek, or other ethnic origin such as those coming from Afghanistan. The Committee wishes to receive detailed data on the outcome of this process, disaggregated by ethnic origin.**

19. The Committee is deeply concerned by information that the State party has adopted measures drastically limiting access to foreign culture and art, foreign media and the Internet. While taking note of the abolition of the exit visa in 2004, it also remains concerned about the reported impediments imposed on Turkmen students wishing to study abroad (art. 7).

The Committee recommends to the State party that it respect the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or other media, in order to foster common understanding and tolerance amongst nations and ethnic groups. The Committee also recommends that the State party allow students to study abroad and that it provide detailed information on the actual regulations and practices relating to the recognition of foreign degrees.

20. The Committee notes that the “Ruhnama” reportedly dominates the school curriculum in Turkmenistan. The Committee is concerned about the content of this text, and would appreciate receiving a copy (art. 7).

The Committee recommends that the State party ensure that school curricula foster understanding, tolerance, and friendship among nations and ethnic groups.

21. The Committee notes that, since independence, no case of racial discrimination has been referred to the courts. According to some information, members of national and ethnic minorities who suffer racial discrimination do not complain to courts because they fear reprisals and lack confidence in the police and the judicial authorities, and because of the authorities’ lack of impartiality and of sensitivity to cases of racial discrimination (art. 6).

The Committee recommends to the State party that it inform victims of their rights, including remedies available to them, facilitate their access to justice,

guarantee their right to just and adequate reparation, and publicize the relevant laws. The State party should ensure that its competent authorities proceed to a prompt and impartial investigation on complaints of racial discrimination, or whenever there are reasonable grounds to believe that racial discrimination has been committed on its territory. Judges and lawyers, as well as law enforcement personnel, should be trained accordingly.

22. The Committee, while noting the delegation's statement that in 1996, the State party established a Human Rights Institute, notes that this institution does not seem to qualify as an independent National Human Rights Institution under 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) (art. 6).

The Committee invites the State party to consider establishing such an independent national human rights institution, with the mandate, in particular, to monitor compliance with the obligations of the Government of Turkmenistan under 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, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

24. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of doing so.

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. 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, in Turkmen and in the main minority languages, in particular Russian.

27. The Committee invites the State party to take advantage of the technical assistance available under the advisory services and technical assistance programme of the Office of

the United Nations High Commissioner for Human Rights for the purpose of reviewing its laws and policies in a way that addresses the Committee's concerns set out above. In view of the situation in Turkmenistan, the Committee strongly recommends to the State party that it extend an invitation to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to visit its territory.

28. 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 317, 319, 320, 321 and 326 above, within one year of the adoption of the present conclusions.

29. The Committee recommends to the State party that it submit its sixth and seventh periodic reports in a single report, due on 29 October 2007.
