

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Seventy-first session

Geneva, 30 July - 18 August 2007

**QUESTIONS PUT BY THE RAPPOREUR
IN CONNECTION WITH THE CONSIDERATION OF
THE SECOND TO FOURTH PERIODIC REPORTS OF
KYRGYZSTAN
(CERD/C/KGZ/4)**

General legal framework

1. Please provide information on the extent to which the constitutional guarantees set out in Section II of the Constitution apply to non-citizens, bearing in mind the Committee's General Recommendation No. 30 (2004) on discrimination against non-citizens.

Status of the Convention in domestic law

2. According to Article 12 of the Constitution, courts in the Kyrgyz Republic can directly apply the provisions of international treaties and agreements to which the Kyrgyz Republic is a party. Please provide concrete examples of such occurrences, in particular with regard to the International Convention on the Elimination of all Forms of Racial Discrimination, if any.

Definition of racial discrimination

3. Does a definition of racial discrimination exist in domestic law? If so, is it in keeping with the definition contained in article 1 of the Convention?

Article 2

4. Does the State party intend to adopt a general anti-discrimination law aimed to give effect to the provisions of article 2, paragraph 1, of the Convention, as well as to the general prohibition of discrimination set out in Article 13 of the Constitution?
5. Please provide additional information on the mandate entrusted to the Commission on Human Rights established pursuant to Presidential

Decree of 5 July 2007. Can the Commission receive communications from individuals claiming to be victims of acts of racial discrimination? If so, what is the relationship and repartition of competences between the Commission on Human Rights and the Ombudsman Office which can also examine cases of racial discrimination? (Paragraphs 11 and 12 of the State party report) . Which recommendations can the Ombudsman make upon examination of those cases?

6. Please provide concrete examples of the work carried out by the Assembly of the Kyrgyz Nation in its efforts to promote understanding and tolerance between the different ethnic groups existing in the territory of the State party. What measures, if any, have the State party adopted to follow up to the recommendations of the OSCE High Commissioner on National Minorities of September 1995 (HC/7/95) concerning the strengthening of the Assembly of the Kyrgyz Nation?

Article 4

7. According to paragraph 54 of the State party report, Article 9 of the Kyrgyz Constitution of 2003 provided that “acts calculated to disturb the peaceful coexistence of nations, or to advocate or foment inter-ethnic conflict, shall be unconstitutional”. This provision does not appear to have been included in the text of the new constitution, adopted on 30 December 2006. Please explain why. (Paragraph 54 of the State party report)
8. Please provide detailed information on the number of prosecutions and convictions and on the sanctions imposed under Articles 134 and 299 of the Criminal Code. Please also provide additional information on legislative measures adopted by the State party to prohibit and punish all racially motivated crimes in accordance with article 4 of the Convention. According to information received, existing criminal provisions do not provide that racist motivation is to be taken into account as an aggravating factor for all types of criminal offences; please provide information in this regard.
9. Please provide information on the implementation of the Law on Mass Media, with particular regard to judicial cases, if any, concerning the prohibition and punishment of hate speech crimes committed through the media.

Article 5

10. Please provide updated information disaggregated on the basis of national and ethnic origin on the number of requests for asylum or refugee status presented since the entry into force of the Refugee Act in 2002, as well as statistics on the number of accepted and rejected applications, disaggregated to the extent possible by country of origin, age, sex and, where relevant, grounds for rejection. Please also indicate which measures the State party has adopted and implemented to protect the rights of refugees and asylum seekers during the status determination process, with particular regard to measures aimed at preventing their possible deportation prior to the conclusion of this process. (Paragraphs 124 -134 of the State party report)
11. According to information received, members of the Uighur minority fleeing from China are subject to discriminatory treatment in the State party and often exposed to the risk of deportation or extradition, particularly if they were involved with political and religious activities in China. Please provide information on the measures that the State party has adopted or intends to adopt to protect the rights of persons belonging to the Uighur minority and ensure their equal treatment before the law in accordance with the Convention and the Constitution.
12. Please provide information on the steps taken by the State party to investigate the clashes that took place in February 2006 between Kyrgyz and Dungan communities living in Iskra, as well as measures to promote dialogue and understanding between the two communities.
13. Please provide information on measures taken by the State party to ensure the equitable representation of persons belonging to the different ethnic groups existing in the territory of the State party – and in particular the Uzbek minority – in Parliament, as well as in the government and in the public administration.
14. According to information before the Committee, the number of inter-ethnic marriages has fallen in the last years. Please provide updated statistics concerning the number of registered inter-ethnic marriages in the last ten years.
15. Bearing in mind the Committee's statement on racial discrimination and measures to combat terrorism of 8 March 2002, please provide

detailed information on steps undertaken by the State party to ensure that the restrictions on the activities of some Islamic groups on its territory, taken in the context of the struggle against terrorism, “do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin” (A/57/18, paragraph 514, Statement on racial discrimination and measures to combat terrorism, paragraph 5).

16. As requested in paragraph 9 of the concluding observations adopted by the Committee with regard to the initial report of the State party (CERD/C/304/ADD.77), please provide detailed information on measures adopted to ensure the practical enjoyment by persons belonging to ethnic and national minorities of the rights listed in article 5 (e) of the Convention, in particular the right to work, including the right to equal opportunities of promotion and career development, and the right to housing.
17. In addition to information provided in paragraph 133 of the State party report, please provide disaggregated statistical data on Kyrgyz nationals who migrated to find work outside the State party during the period 2000-2005. What measures has the State party adopted and implemented to protect the rights of those emigrants, which according to information before the Committee are extremely vulnerable to discrimination and often become victims of racially motivated crimes? (Paragraph 133 of the State party’s report).
18. According to information before the Committee, employment opportunities for refugees are limited. Please provide information on the measures that the State party has adopted or intends to adopt to guarantee the right of refugees to work in accordance with Article 13 of the Law on Refugees. (Paragraph 134 of the State party’s report).
19. Please provide further information on the implementation of article 5 of the Constitution and other legislative and regulatory acts aimed at guaranteeing the preservation and use of the languages spoken by persons belonging to different ethnic communities; is such implementation guaranteed by any effective mechanism?

Article 6

20. Please provide information on the number and nature of communications concerning cases of alleged racial discrimination

considered by the Office of the Ombudsman since its establishment in July 2002. (Paragraphs 190-195 of the State party report)

21. Please provide information on the remedies – including civil remedies – available in the State party to persons who claim to be victims of acts of racial discrimination, as well as on measures taken to ensure reparation for any damage suffered as a consequence of such discriminatory acts.

Article 7

22. Please provide detailed information on the measures that the State party has adopted, or intends to adopt, to mitigate inter-ethnic tensions, in particular between Kyrgyz and Uzbek communities living in the southern part of the country, and to promote dialogue and understanding between persons belonging to the different ethnic communities present in the territory of the State party.
23. In addition to information provided in paragraphs 69 to 78 of the core document, please provide further information on specific training programmes and courses, if any, for members of the judiciary, policy-makers, law enforcement officials, teachers, social workers and other public officials on the provisions of the Convention and their application.
24. According to information before the Committee, school curricula and textbooks for primary and secondary schools do not contain sufficient information on the history and culture of the different ethnic groups present in the territory of the State party. Please provide detailed information on measures taken in the field of education to combat racial prejudices and to promote tolerance and friendship among racial or ethnical groups.

General issues

25. Does the State party envisage ratification of 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness?

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