
ADVANCE UNEDITED VERSIONDistr.: General
29 April 2022

Original: English

Committee on the Elimination of Racial Discrimination**Concluding observations on the combined eighth to tenth reports of Kazakhstan***

1. The Committee considered the combined eighth to tenth periodic reports of Kazakhstan,¹ submitted in one document and presented by the State party during its fourth appearance before the Committee, at its 2879th and 2880th meetings,² held on 21 and 22 April 2022. At its 2885th meeting, held on 26 April 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined eighth to tenth periodic reports of the State party. It welcomes the constructive dialogue with the State party's delegation and thanks the delegation for the information provided during the consideration of the report and after the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification of:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2022;

(b) The Convention on the Rights of Persons with Disabilities in 2015.

4. The Committee also welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The creation in 2020 of the Committee for the Development of Interethnic Relations within the Ministry of Information and Social Development of the Republic of Kazakhstan and of the Institute of Applied Ethno-Political Research;

(b) The amendments made in 2019 to the Code of the Republic of Kazakhstan on Marriage (Matrimony) and Family, providing for universal registration of the birth of all children, regardless of the legal status of their parents;

(c) The identification and documentation campaign that has, since 2020, led to the identification of more than 8,000 undocumented citizens;

(d) The repatriation, since 2019, of 669 persons from areas of conflict in Afghanistan, Iraq, and the Syrian Arab Republic, as well as from Turkey;

* Adopted by the Committee at its 106th session from 11 – 29 April 2022.

¹ CERD/C/KAZ/8-10.

² See CERD/C/SR.2879 and CERD/C/SR.2880.

(e) The adoption in 2018 of the Law On the Victims Compensation Fund, which enables victims of crimes related to trafficking in persons to receive financial compensation.

C. Concerns and recommendations

Statistics

5. The Committee regrets the lack of comprehensive statistics provided on the social and economic situation of the ethnic groups living in the State party, including on persons of African descent (arts. 1- 2).

6. The Committee recommends that the State party develop a mechanism to regularly collect reliable statistics on the social and economic situation of the ethnic groups living in the State party, including on persons of African descent, in particular on education, employment, health and housing. The Committee also recommends that such statistics be published regularly and that the State party include them in its next periodic report.

Anti-discrimination legislation

7. While noting that the Constitution and a number of sectoral laws include provisions prohibiting racial discrimination, the Committee remains concerned by the lack of a comprehensive anti-discrimination legislation, which includes a definition of direct and indirect discrimination and establishes liability for acts of racial discrimination in all areas of life. The Committee is also concerned that the Labour Code has not been amended to explicitly prohibit discrimination based on colour (arts. 1-2).

8. Recalling its previous recommendation³, the Committee recommends that the State party adopt a comprehensive anti-discrimination law, including a definition of direct and indirect discrimination, in line with article 1, paragraph 1, of the Convention. The Committee also recommends that the Labour Code in the State party be amended to explicitly prohibit discrimination based on colour.

The Convention in domestic law

9. While noting the information provided by the State party that the Convention is directly applicable in its domestic legal order, the Committee is concerned by the lack of information on how the State party has ensured the application of provisions of the Convention that require implementing legislation (art. 2).

10. The Committee recommends that the State party review its national legislation to ensure that all provisions of the Convention can be applied by or invoked before domestic courts. The Committee also recommends that the State party ensure that members of the legislature, judges, magistrates, lawyers, and other relevant officials are systematically trained on the provisions of the Convention.

Intersecting forms of discrimination

11. The Committee is concerned by reports of intersecting forms of discrimination based on race, colour, descent or national or ethnic origin, and other grounds such as religion, gender, age, disability, and sexual orientation (arts. 1-2 and 5).

12. The Committee recommends that the State party take legislative and policy measures to combat all forms of racial discrimination according to article 1 of the Convention intersecting with discrimination based on other grounds such as religion, gender, age, disability, and sexual orientation.

National human rights institutions

13. While welcoming that the State party has strengthened the Commissioner for Human Rights (Ombudsperson), the Committee remains concerned by reports that the institution of

³ CERD/C/KAZ/CO/6-7, para. 6.

the Commissioner is not in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and that the Commissioner is not fully independent. The Committee is also concerned that the activities of the Commissioner to address racial discrimination are insufficient (art. 2).

14. The Committee recommends that the State party strengthen the Commissioner for Human Rights' independence and ensure that it is able to carry out its mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee also recommends that the State party take steps to ensure that the Commissioner is enabled to effectively analyse and address racial discrimination, including systemic racial discrimination. The Committee further recommends that reports on the Commissioner's activities against racial discrimination be published on a regular basis.

Freedom of expression

15. The Committee is concerned that the overly broad provisions of article 174 of the Criminal Code, including on incitement of social, ethnic, tribal, racial, class or religious discord, may lead to unnecessary or disproportionate interference with the right to freedom of expression, including of ethnic minority groups. The Committee is also concerned that article 13 of the Media Act may disproportionality interfere with the right to freedom of expression of the media (art. 4-5).

16. The Committee recommends that the State party clearly define and review the criminal offences in article 174 of the Criminal Code, and ensure that penalties foreseen do not result in unnecessary and disproportionate interference with the right to freedom of expression of human rights defenders, in particular those from ethnic minority groups. The Committee also recommends that the State party amend the Media Act, so that its provisions do not lead to excessive restrictions on the right to freedom of expression of the media.

Racist hate speech

17. The Committee is concerned that racist hate speech on the Internet and on social media against ethnic minority groups is increasing and contributes to ethnic violence in the State party. The Committee is also concerned by the lack of statistics on racist hate speech incidents (art. 4).

18. The Committee recalls its General recommendation no. 35 (2013) on combating racist hate speech and recommends that the State party:

(a) **Improve and increase measures to monitor, combat, and, as appropriate, investigate and prosecute racist hate speech incidents on the Internet and on social media, while ensuring that such measures are balanced with the right to freedom of expression, and that it work with Internet service providers to this end;**

(b) **Expedite the planned development of methodological guidelines to address racist hate speech in public discourse;**

(c) **Collect and analyse statistics on racist hate speech and include these in its next periodic report.**

Legislation against incitement to violence and extremist organizations

19. The Committee reiterates its concern⁴ that the State party's Criminal Code is not in full compliance with the requirements of article 4 (a) and (b) of the Convention (art. 4).

20. The Committee recommends that, in line with article 4 (a) and (b) of the Convention, the State party review its legislation with a view to:

(a) **Prohibit incitement to violence against any group of persons based on race, colour, descent, or national or ethnic origin;**

⁴ CERD/C/KAZ/CO/6-7, para. 12.

- (b) Declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination;**
- (c) Prohibit and punish participation in such organizations or activities.**

Tensions among ethnic groups

21. The Committee is concerned by reports of existing tensions between ethnic groups and of repeated incidents of inter-ethnic violence in the State party. The Committee is also concerned by the lack of open discussion in the State party of racial discrimination, racist hate crimes, and inter-ethnic tensions and conflicts. The Committee notes the shift in the focus of the Assembly of the People of Kazakhstan from organizing cultural events to identifying and resolving inter-ethnic tensions and conflicts, but is concerned that the Assembly is not sufficiently effective in performing these tasks (arts. 4 and 7).

22. The Committee recommends that the State party:

(a) Acknowledge the existence of systemic discrimination against ethnic minority groups and of tensions between ethnic groups on its territory, create opportunities for open dialogue between various ethnic groups, and allow for public discussions on ethnic tensions and conflicts;

(b) Increase and strengthen measures to promote inter-ethnic harmony and tolerance and overcome prejudices and negative stereotypes, including in schools and universities and through the media;

(c) Ensure that local authorities and law enforcement officials are trained in identifying and resolving ethnic tensions that may lead to violent conflicts;

(d) Strengthen the legal and political power of the Assembly of People of Kazakhstan and enable it to be more effective in promoting peaceful coexistence of ethnic groups in the State party and in preventing and addressing ethnic tensions and conflicts, including through mediation.

Dungan minority

23. The Committee takes note of reports that the ethnic-based violence against persons belonging to the Dungan community, which occurred in February 2020 in the Korday district, was the result of longstanding ethnic tensions. The Committee is concerned that such tensions and feelings of fear persist in the Dungan community, despite the State party's efforts to address them. The Committee is also concerned by reports that members of the Dungan community did not receive a fair trial and that compensation for damages to Dungan property has been insufficient (arts. 4 -5).

24. The Committee recommends that the State party:

(a) Reinforce the measures taken to prevent the occurrence of ethnic-based violence against persons belonging to the Dungan community, including by intensifying its activities to build trust and harmonious relations between the Dungan community and its neighbouring communities;

(b) Investigate claims that persons from the Dungan community, who were subject to criminal investigations and proceedings related to the violent events of February 2020, did not receive a fair trial, and establish responsibilities including with regard to possible instigators;

(c) Provide adequate compensation to Dungan victims of the violent events of February 2020, including for vehicles that were lost and cattle that was stolen during the events.

Roma

25. While noting that all citizens in the State party have the same rights by law and that authorities have received no complaints of racial discrimination against Roma, the Committee regrets the lack of information on their social and economic situation that could indicate whether discrimination against Roma takes place in practice (art. 5).

26. In light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party develop and encourage appropriate modalities of communication and dialogue between Roma communities and central and local authorities, with a view to receiving reliable information about any discrimination that Roma face. The Committee also recommends that the State party include, in its next periodic report, statistics about the Roma communities within its jurisdiction, including statistics about Roma participation in political life and about their economic, social and cultural situation, including from a gender perspective.

Kazakh identity

27. The Committee is concerned by reports of an official discourse, including in school curricula, which makes a distinction between autochthonous ethnic Kazakhs, and other ethnic groups that are referred to as “guests”, and which leads to feelings of exclusion among ethnic minority groups. The Committee is also concerned by information of tensions resulting from a policy of encouraging the repatriation of ethnic Kazakhs to certain regions in the country (arts. 2, 4 and 5).

28. The Committee recommends that the State party ensure that it does not promote an official discourse that divides and leads to feelings of exclusion among ethnic groups. The Committee also recommends that the State party ensure that no discrimination results from its programmes to repatriate ethnic Kazakhs, and that any ethnic tensions anticipated or resulting from such repatriations are addressed effectively.

Minorities in political and public affairs

29. The Committee is concerned that ethnic minorities are poorly integrated and not represented proportionately in public decision-making bodies and in the civil service (art. 5).

30. The Committee recommends that the State party ensure fair and equitable representation of ethnic minorities, including women with ethnic minority background, in public decision-making bodies and in the civil service, including through special measures and by identifying and removing barriers that members of ethnic minorities face in this respect. The Committee also recommends that the State party create awareness among ethnic minorities of the importance of their participation in political life and in the civil service.

Education

31. The Committee is concerned by reports that children whose parents do not possess valid registration or other documents have difficulty accessing primary and secondary education. The Committee is also concerned by the low number of students with ethnic minority background in postsecondary education (art. 5).

32. The Committee recommends that the State party ensure that all children in its territory enjoy the right to education in practice without discrimination, irrespective of whether their parents have a legal status in the State party. The Committee also recommends that the State party take measures to support students with ethnic minority background to access postsecondary education and that it periodically evaluate the effectiveness of such measures.

Minority languages

33. While noting the State party’s approach of promoting trilingualism (Kazakh, Russian, English), the Committee is concerned that this policy may have led to the marginalization of ethnic minority languages. The Committee is further concerned by the insufficient availability of pre-schools and kindergartens with instruction in ethnic minority languages (art. 5).

34. The Committee recommends that the State party ensure that sufficient opportunities exist for children from ethnic minorities to learn, and be educated in, their mother tongues, including in pre-schools and kindergartens, with an adequate amount of schools, professional staff, and textbooks provided.

Migrant workers

35. The Committee is concerned by reports that migrant workers face abuse and are subjected to poor and hazardous working conditions. The Committee is also concerned that irregular and undocumented migrants, including children and pregnant women, do not have access to healthcare beyond emergency treatment (art. 5).

36. The Committee recommends that the State party increase measures to prevent and fight abuse and exploitation of migrant workers, including by increasing labour inspections. The Committee also recommends that the State party ensure that all migrant workers, regardless of their status, have access to minimum standards with regards to economic, social and cultural rights, including adequate health care.

Human Trafficking

37. The Committee is concerned that there is no dedicated law against human trafficking in the State party. The Committee is also concerned that despite the State party's efforts to fight human trafficking, the number of persons subjected to forced labour and sexual exploitation continues to grow. The Committee is further concerned by reports of complicity among some law enforcement officers in human trafficking (art. 5).

38. The Committee recommends that the State party develop and adopt a law to prevent and fight human trafficking. The Committee also recommends that the State party further strengthen and effectively enforce existing legislation and measures against slavery and slavery-like practices, including by ensuring effective investigation and prosecution of trafficking cases, including against law enforcement officers.

Refugees and asylum seekers

39. The Committee is concerned:

(a) By reports that applications for asylum of certain nationalities are sometimes denied based on political and security considerations;

(b) About the absence of information on a practical mechanism for the referral of refugees from the border authorities to the competent State agency within the territory of the State party;

(c) That there are no provisions for subsidiary protection for persons who are not given refugee status, but nonetheless are unable to return to their country of origin due to other compelling reasons, leaving them unable to enjoy a number of basic human rights without discrimination;

(d) That refugees are only granted one-year temporary residency, which results in difficulties in finding employment in the formal sector of the economy and in receiving a number of public allowances (art. 5).

40. The Committee recommends that the State party:

(a) **Take measures to ensure that all asylum applications, regardless of nationality and background of the applicant, are processed in line with international law, in particular with the principle of non-refoulement;**

(b) **Establish a referral procedure for the Migration Police Departments and the Border Guard Service at all border points, in compliance with the Committee's previous recommendation⁵ and in line with international norms and standards;**

(c) **Adopt a legislation and take practical measures to ensure that asylum-seekers whose requests for asylum have not been granted and all persons who are not formally recognized as refugees, but nonetheless are unable to return to their country of origin due to other compelling reasons, are allowed to stay in the State party until it is safe for them to return, and allow them to exercise and enjoy their economic, social and cultural rights without discrimination;**

⁵ CERD/C/KAZ/CO/6-7, paragraph 18.

(d) Consider granting refugee status for at least a three-year period.**Stateless persons**

41. The Committee is concerned by reports that it is difficult for undocumented stateless persons to prove a lack of nationality, and that these persons and their children are consequently precluded from the enjoyment of a number of basic rights, including with regards to employment, education and health care. The Committee is also concerned that the Law on Citizenship includes gaps and provisions that may result in statelessness, including the provisions on deprivation of nationality introduced in 2017 (art. 5). The Committee regrets that the State party has not ratified the 1954 Convention relating to the Status of Stateless persons and the 1961 Convention on the Reduction of Statelessness.

42. The Committee recommends that the State party:

(a) Continue its efforts to identify and provide identity documents for persons of undetermined nationality and simplify the statelessness determination procedure;

(b) Review and amend the Law on Citizenship, including its provisions on deprivation of nationality, to ensure that its application does not result in statelessness;

(c) Fully implement its national action plan under the 2014-2024 United Nations Global Action Plan to End Statelessness;

(d) Ratify the 1954 Convention relating to the Status of Stateless persons and the 1961 Convention on the Reduction of Statelessness.

Access to justice

43. The Committee is concerned that the low number of complaints and court decisions in administrative, civil and criminal proceedings on acts of racial discrimination may reflect that victims have inadequate information concerning their rights, that they fear social censure or reprisals, that victims with limited resources fear the cost and complexity of the judicial process, or that there is a lack of trust in the police and judicial authorities. The Committee is also concerned that translations of the legislation in the State party, which is usually drafted in Russian, sometimes include errors, which can negatively impact the accessibility of these laws for non-Russian speakers (art. 6).

44. The Committee recommends that the State party conduct awareness-raising activities to ensure that the public, in particular members of ethnic minorities, are aware of what constitutes racial discrimination and of available legal remedies, including free legal aid. The Committee also recommends that the State party ensure that law enforcement officials are trained to effectively consider and investigate all complaints of racial discrimination and that any reprisals against persons reporting racial discrimination are prevented and punished. The Committee further recommends that the State party provide adequate resources to ensure that accurate translations of its laws are available in the main languages spoken in the State party.

E. Other recommendations**Ratification of other treaties**

45. 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 with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Amendment to article 8 of the Convention

46. The Committee recommends that the State party ratify the amendment to article 8 (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.

Follow-up to the Durban Declaration and Programme of Action

47. In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by 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. 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.

International Decade for People of African Descent

48. In light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

49. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, including organizations representative of the groups most exposed to racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

50. 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 concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

Common core document

51. The Committee encourages the State party to update its common core document, which dates to 4 January 2019, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

52. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of

the recommendations contained in paragraphs 18 (b) (racist hate speech) and 32 (education) above.

Paragraphs of particular importance

53. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 16 (freedom of expression), 22 (tensions among ethnic groups), 28 (Kazakh identity) and 42 (stateless persons) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

54. The Committee recommends that the State party submit its combined eleventh to fourteenth periodic reports, as a single document, by 25 September 2025, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports and 42,400 words for the common core document.
