



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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REFERENCE: CERD/88<sup>th</sup>/FU/GH/FM/ks

26 January 2016

Excellency,

I wish to inform you that the Committee on the Elimination of Racial Discrimination, in the course of its 88<sup>th</sup> session, considered the follow-up report submitted by the Government of Kazakhstan, pursuant to Rule 65 (1) of the Rules of Procedure of the Committee.

The Committee welcomes the submission of the report, in response to its request to receive information within one year on the implementation of the recommendations contained in paragraphs 8, 15 and 18 of the Concluding Observations (CERD/C/KAZ/CO/6-7), adopted following the consideration of the State party's combined 6<sup>th</sup> to 7<sup>th</sup> periodic reports, at its 84<sup>th</sup> session in February 2014.

The Committee appreciates the opportunity provided to continue its dialogue with the State party, and would like to draw the State party's attention to the observations mentioned below. The Committee requests that comments and responses on actions taken by the State party on these issues be included in its 8<sup>th</sup> to 10<sup>th</sup> periodic reports to be submitted in a single document on 25 September 2017.

**Paragraph 8 of the Concluding Observations:** The Committee thanks the State party for its extensive response highlighting existing measures ensuring the participation of ethnic groups to political life and the education in ethnic minority languages in public schools. However, the Committee wishes to clarify the value of temporary special measures which are not “artificial inequality” measures. As stresses in its general recommendation No. 32 (2009) on the meaning and scope of special measures, the principle of equality underpinned by the Convention combines formal equality before the law with substantive or de facto equality in the enjoyment and exercise of human rights. The concept of special measures is based on the principle that laws can be supplemented, when circumstances warrant, by the adoption of temporary special measures designed to secure to disadvantaged groups the full and equal enjoyment of human rights and fundamental freedoms. The Committee stressed that

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the State party should assess the representation of ethnic minorities in legislative and governmental bodies and ensure that they participate equitably in political and civic life.

The Committee underlines that special measures always respect the principles of fairness and proportionality, and are temporary. The measures should be designed and implemented on the basis of need, grounded in a realistic appraisal of the current situation of the individuals and communities concerned.

**Paragraph 15 of the Concluding Observations:** The Committee welcomes the new legal regulations which have allowed regularizing the situation of migrant workers and improving recruitment procedures. It also welcomes work permits issued lately. It indeed encourages the State party to ensure the enforcement of these new regulations and amend them if need be to prevent any discrimination against foreign workers.

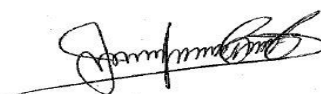
The Committee takes note that the State party is assessing the best way to implement its recommendation on amending migration related regulations to ensure that the requirements to become a sole trader are not overly restrictive and do not discriminate against non-citizens. It urges the State party to ensure that all its regulations, as is the Kazakh Labour Code, are fully in line with the Convention.

**Paragraph 18 of the Concluding Observations:** The Committee regrets that the response does not adequately address the concern raised by the Committee or the recommendation made. During the dialogue, the Committee commended the State party for its Law on Refugees but it was concerned about the absence of a practical mechanism for the referral of refugees between the Migration Police Departments and the Border Guard Service, which could lead to the prolonged detention of asylum seekers without their having access to the territory of the State party and thus increase the risk of their refoulement. The Committee therefore reiterates its recommendation that the State party ensure that standardized asylum procedures are implemented and establish a referral procedure for the Migration Police Departments and the Border Guard Service at all border points, including international airports and transit zones, in compliance with international norms and standards, in particular the principle of non-refoulement.

Rest assured, Excellency, that the Committee looks forward to continuing its constructive dialogue with the Government of Kazakhstan, with a view to providing it with assistance in its efforts to ensure the effective implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



José Francisco Calí Tzay  
Chair

Committee on the Elimination of Racial Discrimination