

COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION  
Hundred-tenth session  
7 – 31 August 2023

ADVANCE UNEDITED VERSION

**PREVENTION OF RACIAL DISCRIMINATION, INCLUDING  
EARLY WARNING AND URGENT ACTION PROCEDURE**

Decision 1 (2023)

**Decision on the lack of equitable and non-discriminatory access to COVID-19 vaccines**

*The Committee on the Elimination of Racial Discrimination*, meeting in Geneva at its hundred-tenth session, from 7 to 31 August 2023,

*Acting* under its Early Warning and Urgent Action Procedure;

*Recalling* its Statement of 7 August 2020 on the Coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination;

*Recalling* its Statement 2 (2022) of 25 April 2022 on the lack of equitable and non-discriminatory access to COVID-19 vaccines<sup>1</sup>, calling on State parties to vote in the World Trade Organization on a waiver to provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) regarding COVID-19 pandemic protections, vaccines, treatments, or healthcare technologies;

*Recalling* also the open letter from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the World Trade Organization's Twelfth Ministerial Conference, of 13 June 2022, in relation to consideration of a waiver of certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19;<sup>2</sup>

*Concerned* that COVID-19 remains a serious public health issue with devastating negative impacts that are falling disproportionately on individuals and groups vulnerable to racial discrimination as defined in Article 1 of the Convention, in particular persons of African or

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<sup>1</sup> [Statement 2 \(2022\) on the lack of equitable and non-discriminatory access to COVID-19 vaccines](#), adopted during the 106th session of the Committee on the Elimination of Racial Discrimination.

<sup>2</sup> [Open letter](#) from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the World Trade Organization's Twelfth Ministerial Conference, 13 June 2022.

Asian descent, those belonging to national or ethnic minorities, Roma communities, Indigenous Peoples, non-citizens, living in both the global North and South countries;

*Noting* that the current challenges of inequality can be significantly mitigated by sharing access to intellectual property rights to life-preserving patents to vaccines, treatments and related technologies which are currently reserved by a few countries in the global North;

*Concerned* that the Ministerial Decision on the TRIPS Agreement, adopted on 17 June 2022 at the twelfth Ministerial Conference of the World Trade Organization does not go far enough to address the high rates of COVID-19 morbidity and mortality worldwide among the people and groups most exposed to racial discrimination;

*Noting* that the State parties referred to in Statement 2 (2022), that is Germany, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America, are in a specifically powerful situation when it comes to waiving intellectual property rights under the TRIPS Agreement or taking other measures to address the lack of equitable and non-discriminatory access to COVID-19 vaccines;

*Noting* further that the persistent refusal to vote for a waiver of the TRIPS Agreement or to take other measures to the same effect, raises concerns regarding their obligations under the Convention as well as other international human rights guarantees;

**Reiterates** its Statement 2 (2022) of 25 April 2022 on the lack of equitable and non-discriminatory access to COVID-19 vaccines;

**Joins the** UN High Commissioner for Human Rights,<sup>3</sup> in urging States parties, in particular Germany, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America, to not allow economic interests and corporate commitments to be prioritized over respect for human rights, and instead to prioritize the safety and protection of vulnerable and marginalized populations through non-discriminatory policies consistent with ICERD;

**Calls upon** States parties to prioritize human rights concerns and to incorporate strict human rights guarantees, including a mechanism that commits governments to suspend intellectual property rights in a health crisis, in the draft pandemic prevention, preparedness and response accord currently under negotiation at the World Health Organisation;

**Calls upon** States parties in the global North to provide resources to enable poorer States to satisfy the core medical capacities that they are expected to have in place under the International Health Regulations<sup>4</sup> and to enable vaccines, relevant medicines and other necessary equipment and supplies to be available to all in a non-discriminatory manner;

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<sup>3</sup> United Nations High Commissioner for Human Rights, Ensuring equitable, affordable timely and universal access for all countries to vaccines in response to the coronavirus disease (COVID-19) pandemic, [A/HRC/52/56](#), 3 January 2023, para. 53

<sup>4</sup> See World Health Assembly resolution no. WHA58.3, “Revision of the International Health Regulations”.

**Requests** Germany, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America to respond to the present Decision, by providing information on the measures taken to waive intellectual property protections for COVID-19 vaccines or other measures taken in order to address the high rates of COVID-19 morbidity and mortality worldwide among individuals and groups most exposed to racial discrimination.

*3016th meeting  
30 August 2023*

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