ADVANCE EDITED VERSION

Report of the Committee on the Elimination of Racial Discrimination

Seventy-eighth session
(14 February–11 March 2011)

Seventy-ninth session
(8 August – 2 September 2011)

General Assembly
Official Records
Sixty-sixth session
Supplement No. 18 (A/66/18)

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United Nations • New York, 2011

Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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Letter of transmittal

2 September 2011

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 174 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During the past year, the Committee continued with a significant workload in terms of the examination of States parties' reports (see chap. III) in addition to other related activities. The Committee also examined the situation of several States parties under its early warning and urgent action procedures (see chap. II). Furthermore, the Committee examined several States parties under its follow-up procedure (see chap. IV).

In the framework of the International Year of People of African Descent, the Committee held a day-long thematic discussion on racial discrimination against people of African descent during its seventy-eighth session. Furthermore, the Committee adopted its general recommendation No. 34 on racial discrimination against people of African descent at its seventy-ninth session (see annex IX).

On the occasion of the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, the Committee adopted a statement (see annex X).

As important as the Committee's contributions have been to date, there is obviously some room for improvement. At present, only 54 States parties have made the optional declaration recognizing the Committee's competence to receive communications under article 14 of the Convention and, as a consequence, the individual communications procedure is underutilized.

Furthermore, only 43 States parties have so far ratified the amendments to article 8 of the Convention adopted at the Fourteenth Meeting of States Parties, despite repeated calls from the General Assembly to do so. These amendments provide, inter alia, for the financing of the Committee from the regular budget of the United Nations. The Committee appeals to States parties that have not yet done so to consider making the declaration under article 14 and ratifying the amendments to article 8 of the Convention.

His Excellency Mr. Ban Ki-moon
Secretary-General of the United Nations
New York

The Committee remains committed to a continuous process of improvement of its working methods, with the aim of maximizing its effectiveness and adopting innovative approaches to combating contemporary forms of racial discrimination. The evolving practice and interpretation of the Convention by the Committee is reflected in its general recommendations, opinions on individual communications, decisions and concluding observations.

At the present time, perhaps more than ever, there is a pressing need for the United Nations human rights bodies to ensure that their activities contribute to the harmonious and equitable coexistence of peoples and nations. In this sense, I wish to assure you once again, on behalf of all the members of the Committee, of our determination to continue working for the promotion of the implementation of the Convention and to support all activities that contribute to combating racism, racial discrimination and xenophobia throughout the world, including through follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001 and to the outcome of the Durban Review Conference in 2009.

I have no doubt that the dedication and professionalism of the members of the Committee, as well as the pluralistic and multidisciplinary nature of their contributions, will ensure that the work of the Committee contributes significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

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

(*Signed*) Anwar Kemal
Chairperson
Committee on the Elimination
of Racial Discrimination

I. Organizational and related matters

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 2 September 2011, the closing date of the seventy-ninth session of the Committee on the Elimination of Racial Discrimination, there were 174 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the seventy-ninth session, 54 of the 174 parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 43 States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 2 September 2011.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2010. The seventy-eighth (2050th to 2088th meetings) and seventy-ninth (2089th to 2125th meetings) sessions were held at the United Nations Office at Geneva from 14 February to 11 March and from 8 August to 2 September 2011, respectively.

4. The agendas of the seventy-eighth and seventy-ninth sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. The list of members of the Committee for 2011 is as follows:

Name of member	*Nationality*	*Term expires on 19 January*
Nourredine **Amir**	Algeria	2014
Alexei S. **Avtonomov**	Russian Federation	2012
José Francisco **Cali Tzay**	Guatemala	2012
Anastasia **Crickley**	Ireland	2014
Fatimata-Binta Victoire **Dah**	Burkina Faso	2012
Régis de **Gouttes**	France	2014
Ion **Diaconu**	Romania	2012

Name of member	*Nationality*	*Term expires on 19 January*
Kokou Mawuena Ika Kana (Dieudonné) **Ewomsan**	Togo	2014
Huang Yong'an	China	2012
Anwar **Kemal**	Pakistan	2014
Gun **Kut**	Turkey	2014
Dilip **Lahiri**	India	2012
Jose A. **Lindgren Alves**	Brazil	2014
Pastor Elias **Murillo Martínez**	Colombia	2012
Chris Maina **Peter**	United Republic of Tanzania	2012
Pierre-Richard **Prosper**	United States of America	2012
Waliakoye **Saidou**	Niger	2014
Patrick **Thornberry**	United Kingdom of Great Britain and Northern Ireland	2014

D. Officers of the Committee

6. The Bureau of the Committee comprised the following Committee members in 2011:

Chairperson	Anwar **Kemal** (2010–2012)
Vice-Chairpersons	Pierre-Richard **Prosper** (2010–2012)
	Francisco **Cali Tzay** (2010–2012)
	Fatimata-Binta Victoire **Dah** (2010–2012)
Rapporteur	Ion **Diaconu** (2010–2012)

E. Cooperation with United Nations entities, the special procedures of the Human Rights Council and the regional human rights mechanisms and civil society

7. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

[1] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18* (A/27/18), chap. IX, sect. B.

8. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations submitted to the International Labour Conference were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention No. 111 (1958) and the Indigenous and Tribal Peoples Convention No. 169 (1989), as well as other information in the reports relevant to its activities.

9. UNHCR submits comments to the members of the Committee on all States parties whose reports are being examined when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum-seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR.

10. UNHCR and ILO representatives attend the sessions of the Committee and brief Committee members on matters of concern.

11. At its 2059th meeting (seventy-eighth session), on 18 February 2011, the Committee held a dialogue with Nils Muiznieks, Chair of the European Commission against Racism and Intolerance (ECRI), Council of Europe, and Stephanos Stavros, Executive Secretary to ECRI.

12. James Anaya, Special Rapporteur on the rights of indigenous peoples, held a dialogue in a closed meeting with the Committee at its 2084th meeting (seventy-eighth session), on 9 March 2011.

13. Gay McDougall, independent expert on Minority Issues, Verene Shepherd, member of the Working Group of Experts on People of African Descent, and Ali Moussa, Chief of the Intercultural Dialogue Section, Division of Cultural Policies and Intercultural Dialogue, UNESCO, participated as main panellists during the day of thematic discussion on racial discrimination against people of African descent, held by the Committee at its 2080th and 2081st meetings on 7 March 2011 (seventy-eighth session).

14. At its 2092nd meeting (seventy-ninth session), on 9 August 2011, the Committee met representatives of the United Nations Population Fund and the non-governmental organization Centre for Reproductive Rights in a closed meeting.

15. At its 2090th meeting (seventy-ninth session) on 8 August 2011, the Committee held a dialogue, in a closed meeting, with a representative of the non-governmental organization International Movement against All Forms of Discrimination.

F. Other matters

16. Ibrahim Salama, director of the Human Rights Treaties Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR) addressed the Committee at its 2050th meeting (seventy-eighth session), on 14 February 2011. Navi Pillay, United Nations High Commissioner for Human Rights, addressed the Committee at its 2089th meeting (seventy-ninth session), on 8 August 2011.

G. Adoption of the report

17. At its 2125th meeting (seventy-ninth session), on 2 September 2011, the Committee adopted its annual report to the General Assembly.

II. Prevention of racial discrimination, including early warning and urgent action procedures

18. The Committee's work under its early warning and urgent action procedure is aimed at preventing and responding to serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination. A working paper adopted by the Committee in 1993[2] to guide its work in this area was replaced by new guidelines adopted by the Committee at its seventy-first session, in August 2007.[3]

19. The Committee's working group on early warning and urgent action, established at its sixty-fifth session in August 2004, is currently comprised of the following members of the Committee:

Coordinator: José Francisco Cali Tzay

Members: Alexei S. Avtonomov
Anastasia Crickley
Huang Yong'an
Chris Maina Peter

20. The following decision and statements were adopted by the Committee under its seventy-eighth and seventy-ninth sessions:

A. Decision 1 (78) on Côte d'Ivoire

The Committee on the Elimination of Racial Discrimination, acting according to its mandate,

Alarmed by reports of the seriously declining human rights and humanitarian situation in Côte d'Ivoire, including ethnic tensions, incitement to ethnic violence, xenophobia, religious and ethnic discrimination,

Bearing in mind that the situation in Côte d'Ivoire is still under consideration by the Security Council, and taking into account resolutions adopted thereby, in particular resolutions 1962 (2010) and 1967 (2011),

Also taking into account Human Rights Council resolution S-14/1 of 23 December 2010, statements made by the Secretary-General of the United Nations and by the United Nations High Commissioner for Human Rights,

Considering the report of the United Nations High Commissioner for Human Rights of 15 February 2011 on the situation of human rights in Côte d'Ivoire (A/HRC/16/79) to the Human Rights Council pursuant to the aforementioned resolution,

Acknowledging the actions undertaken by the Economic Community of West African States and the African Union,

Recalling recommendations made by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (see

[2] *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18* (A/48/18), para. 18 and annex III.

[3] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 18* (A/62/18), annex III.

E/CN.4/2005/18/Add.3) and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (see E/CN.4/2005/64/Add.2) following their missions in Côte d'Ivoire in 2004 which are still relevant to the current situation,

Noting with concern that the humanitarian situation is worsening with a large number of refugees fleeing Côte d'Ivoire to neighbouring countries, including Liberia,

Recalling that Côte d'Ivoire has ratified the International Convention on the Elimination of All Forms of Racial Discrimination and is under the obligation to prevent and protect persons against acts of hatred, incitement to racial and ethnic violence or any form of violence based on ethnicity,

Considering the situation in Côte d'Ivoire under its early warning and urgent action procedure:

1. The Committee deplores that the political stalemate that followed the proclamation of presidential election results continues to be marked by a number of serious and escalating human rights and humanitarian violations across the country, including ethnic clashes that have resulted in deaths, numerous injured people, destruction of property as well as in the displacement of population inside and outside the country.

2. The Committee recalls its latest concluding observations on the fifth to fourteenth periodic reports of Côte d'Ivoire, adopted on 21 March 2003 (CERD/C/62/CO/1), wherein it raised concerns on racial and xenophobic violence and on the fact that some of the national media have used propaganda to incite war and encourage hatred and xenophobia.

3. The Committee reiterates its recommendations contained in its concluding observations that Côte d'Ivoire continue its efforts to prevent a repetition of ethnic violence and to punish those responsible; and that Cote d'Ivoire strengthen the measures guaranteeing the contribution of civil society for the promotion of inter-ethnic harmony.

4. The Committee expresses its deep concern regarding the present situation and incitement to hatred, ethnic violence and intolerance and calls upon Côte d'Ivoire to end any form of ethnic violence and incitement to hatred.

5. The Committee calls upon Côte d'Ivoire to immediately halt inter-ethnic violence and clashes, to take immediate steps to investigate and punish the perpetrators of ethnic violence and provide redress to the victims in line with international human rights standards, particularly the International Convention on the Elimination of All Forms of Racial Discrimination.

6. The Committee calls upon the Secretary-General of the United Nations to continue drawing the attention of the Security Council to the situation in Côte d'Ivoire, which could evolve into a threat to international peace and security, along with extended violations of human rights and fundamental freedoms.

7. The Committee requests information on the situation and the measures taken by the State party to redress it at its earliest convenience, but preferably no later than 31 July 2011.

B. Statement on the situation in Libya

The Committee on the Elimination of Racial Discrimination, acting according to its mandate and under its early warning and urgent action procedures,

Alarmed by violent clashes in Libya, particularly by their impact on the situation of non-citizens, migrant populations, migrant workers, refugees and persons belonging to other minority groups,

Seriously concerned by information relating to the excessive use of force against the civilian population and a reported exodus of populations from Libya, as well as acts of violence against persons from other countries, in particular persons from sub-Saharan Africa,

Bearing in mind its general recommendation No. 30 (2004) on discrimination against non-citizens,

Taking into account Security Council resolution 1970 (2011) of 26 February 2011 and Human Rights Council resolution S-15/2 of 25 February 2011,

Calls upon the Secretary-General of the United Nations, in collaboration with competent bodies, in particular the United Nations High Commissioner for Refugees, the United Nations High Commissioner for Human Rights and regional organizations, to seek urgent measures to ensure the protection of the populations concerned and avoid the risk of inter-ethnic violence and divisions which might worsen the deteriorating situation in Libya.

C. Statement on the situation in the Syrian Arab Republic

The Committee on the Elimination of Racial Discrimination, acting according to its mandate and under its early warning and urgent action procedures,

Profoundly alarmed by violence and widespread human rights violations in the Syrian Arab Republic including their impact on the situation of ethno-religious groups, non-citizens, migrant populations and refugees,

Extremely concerned by information contained in the report of the fact-finding mission on the Syrian Arab Republic produced by the Office of the United Nations High Commissioner for Human Rights, in particular the mass killings and other unlawful and unrestrained use of force against the civilian population by security and armed forces which is leading to an increased exodus of populations to neighbouring countries fleeing violence,

Bearing in mind its general recommendation No. 30 (2004) on discrimination against non-citizens,

Taking into account the Presidential Statement of the Security Council S/PRST/2011/16 of 3 August 2011, the Human Rights Council resolutions S-16/1 of 29 April 2011 and S-17/1 of 22 August 2011 and recent statements of the Secretary-General, the United Nations High Commissioner for Human Rights and special procedures mandate holders, as well as the League of Arab States statement of 27 August 2011,

Declares the State party to be in breach of articles 2, 4 (a) and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and urges the State party to put an immediate end to violence and serious human rights violations against the civilian population.

D. Statement on Dale Farm

The Committee on the Elimination of Racial Discrimination meeting in its seventy-ninth session from 8 August to 2 September 2011,

Expresses its deep regret at the insistence of the United Kingdom of Great Britain and Northern Ireland authorities to proceed with the eviction of Gypsy and Traveller families at Dale Farm in Essex before identifying and providing culturally appropriate accommodation.

1. The Committee considered the combined eighteenth to twentieth periodic reports of the United Kingdom of Great Britain and Northern Ireland on 23 and 24 August 2011 during its seventy-ninth session. The issue of Dale Farm was extensively discussed with the delegation of the State party. The Committee will issue its concluding observations on all nine States parties considered at its seventy-ninth session, including the United Kingdom of Great Britain and Northern Ireland on Friday, 2 September 2011.

2. The Committee also considered this issue under its early warning and urgent action procedure.

Taking into account articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and the Committee's general recommendation No. 27 (2000) on discrimination against Roma, the Committee calls on the State party to suspend the planned eviction which would disproportionately affect the lives of the Gypsy and Traveller families, particularly women, children and older people, and create hardship, until culturally appropriate accommodation is identified and provided. The Committee urges the State party to find a peaceful and appropriate solution which fully respects the rights of the families involved. Travellers and Gypsies already face considerable discrimination and hostility in wider society and the Committee is deeply concerned that this could be worsened by actions taken by authorities in the current situation and by some media reporting on the issues.

21. During the reporting period, the Committee considered a number of situations under its early warning and urgent action procedure, including in particular the following.

22. Upon receiving updated information from the Government of **Brazil** on 23 August 2010 on the situation of the indigenous peoples of Raposa Serra do Sol, the Committee decided at its seventy-eighth session to remove this case from its early warning and urgent action procedure. In its letter dated 11 March 2011, the Committee informed the State party of that decision and at the same time requested that the State party include, in its next periodic reports, information on results of investigations conducted and sanctions imposed on those responsible for violence against the indigenous peoples of Raposa Serra do Sol, as well as on other measures taken to secure their enjoyment of their rights.

23. At its seventy-eighth session, the Committee considered the situation of the Mapuche people in **Chile** with regard to the hunger strike of 35 political prisoners, including two children, which took place between July and October 2010. The Committee requested the State party to provide information on the situation of the Mapuche people and the implementation of the anti-terrorist legislation to its members in its next periodic report, due on 31 August 2012.

24. Upon receiving information from non-governmental organizations, the Committee considered at its seventy-eighth session the situation of the Rapa Nui indigenous peoples of Easter Island in **Chile**. The Committee expressed its concern at the alleged evictions of members of this community from their ancestral land, as well as the use of violence by the Chilean Armed Forces and the criminal proceedings launched against the community's members. It asked for clarification of the circumstances of the alleged evictions and criminal proceedings, and requested further information on the measures taken to promote and protect the Rapa Nui people's human rights, including by investigating and punishing offences committed by members of the Chilean Armed Forces. During its seventy-ninth

session, the Committee sent another letter to the State party, expressing its gratitude for the information received on 3 July 2011. Nevertheless, the Committee expressed its continued concern about the situation of the Rapa Nui peoples and decided to request additional information.

25. In the light of information received from the Government of **Costa Rica** on 28 January 2011 about the situation of the indigenous people of Térraba, the Committee, at its seventy-eighth session, requested the State party to provide information on the progress of the hydroelectric dam project and the measures taken to guarantee the rights of indigenous peoples and ensure their effective participation at all stages of the project. Costa Rica replied in a letter dated 29 July 2011. At its seventy-ninth session, the Committee sent a letter to the State party thanking it for the additional information received. Nevertheless, the Committee expressed its continued concern about the situation of the indigenous people of Térraba and, more specifically, the pressure which they are under to support the dam project.

26. In August 2010, the Committee adopted a decision on ethnic violence in southern **Kyrgyzstan**. While thanking the State party for its response dated 18 January 2011, the Committee decided at its seventy-eighth session to request additional and detailed information on measures taken to reconstruct destroyed houses, conduct impartial investigations of acts of violence, facilitate access to justice and provide victims with adequate redress, as well as to request that the State party inform the Committee of the number of trials that had already taken place and sanctions imposed on those responsible. Finally, the Committee asked for clarification as to why detained persons accused of having been involved in the June 2010 violence were mostly from the Uzbek community, although the majority of victims of the violence were Uzbek. In the absence of a response from the State party as of August 2011, the Committee decided, at its seventy-ninth session, to reiterate its request for information.

27. In the light of information received on the situation of indigenous peoples' lands in **Papua New Guinea**, the Committee, at its seventy-eighth session, transmitted a letter to the Government expressing its concerns and requesting information, to be provided by 31 July 2011. It more specifically focused its concerns on the threat of alienation through the Government's practice of granting long-term leases of indigenous lands to non-indigenous companies without adequate consultation and consent of the indigenous landowners. The Committee also expressed concern about the alleged denial of access to judicial remedies, including compensation, for indigenous landowners suffering environmental destruction of their lands and resources. Therefore, the Committee urged the State party to provide information on measures taken to address these issues.

28. At its seventy-eighth session, the Committee considered issues related to the situation of the small-numbered indigenous peoples from Nanai District of the Khabarovsk Krai in the **Russian Federation**. According to information received, a new federal law might make their situation worse than under previous fishery rules, by preventing them from selling fish as their livelihood. Therefore, the Committee recommended that the State party conduct an impact assessment of the new law and requested it to inform the Committee of measures taken to ensure that the application of that law would not endanger their fishing activities and livelihood. In the light of information received from the Government of the **Russian Federation** on 4 August 2011, the Committee asked for further explanations on the contents of the draft federal act and on the time frame for its adoption. It further called upon the State party to consult the concerned indigenous peoples about that draft act and to report to the Committee on those consultations.

29. At its seventy-eighth and seventy-ninth sessions, the Committee further considered the situation of Roma people in Plavecký Štvrtok in **Slovakia.** Following its previous communications to the Government in August 2010 and March 2011, the Committee, at its

seventy-ninth session, reiterated its request that the State party provide additional detailed information on concrete and effective measures in place to deal with the reportedly pervasive discrimination against Roma in Slovakia, and the promised consultations with the affected Roma families in order to ensure alternative means of accommodation. It requested this information by 31 January 2012.

30. In the light of information submitted by non-governmental organizations, the Committee considered at its seventy-eighth session allegations of ill-treatment and threats to the life of refugees and asylum-seekers following the 2008 outbreak of xenophobic violence in **South Africa**. Expressing its deep concern, the Committee urged the State party to provide information on measures taken or envisaged to combat xenophobic attitudes, stop ongoing racist violence against non-citizens, in particular against refugees and asylum-seekers living in camps, and punish its perpetrators. The Committee also requested information on measures taken to ensure that refugees and asylum-seekers enjoy economic, social and cultural rights and enjoy adequate and safe living conditions.

31. At its seventy-fourth session, the Committee had requested information about the situation of the Maasai community in Soitsambu village, Sukenya Farm, in the **United Republic of Tanzania**. Since the adoption of its latest concluding observations on Tanzania in 2007 (CERD/C/TZA/CO/16), the Committee had noted with concern the lack of information from the State party regarding the expropriation of the ancestral territories of certain ethnic groups, and their forced displacement and resettlement. In the absence of a response by the State party, the Committee decided, at its seventy-eighth session, to reiterate its request for information.

32. At its seventy-eighth session, the Committee further considered the issue related to traditional rights to land of Western Shoshone in the **United States of America**. The Committee expressed concern over the slow progress in the implementation of its decision 1 (68) of 7 March 2006 and urged the State party to implement its recommendations. It also asked the State party to provide information on effective measures taken by the State party to find a solution acceptable to all on Western Shoshone ancestral lands in its next combined periodic reports due on 20 November 2011.

33. At its seventy-eighth session, the Committee further considered the situation of the Romani and Irish Traveller community at Dale Farm, County of Essex, in the **United Kingdom of Great Britain and Northern Ireland** and decided to pursue the consideration of this situation at its seventy-ninth session. During the seventy-ninth session of the Committee, held in August 2011, the issue of Dale Farm was extensively discussed with the delegation of the State party in the context of the consideration of the periodic reports submitted thereby. The Committee decided to refer to this issue in its concluding observations (CERD/C/GBR/CO/18-20, para. 28) and adopted a statement (para. 20, above).

34. In the light of information received from the Government of **Colombia** about the Urra II Dam project within ancestral lands of the Embera Katio people in a letter dated 26 January 2011, the Committee decided at its seventy-ninth session to remove the case from its early warning and urgent action procedure. Nevertheless, it invited the State party to provide updated information on the issue in its next periodic report due on 2 October 2012.

35. At its seventy-ninth session, the Committee considered the information on allegations to the threat to the existence of the South Omo indigenous peoples in southern **Ethiopia.** It expressed concern regarding the construction of the Gibe III dam and the Kuraz Sugar Project, as well as the authorization for a 50-year lease granted to an Indian company on traditional forests belonging to Mazenger indigenous and other indigenous peoples of Gambella. In a letter dated 2 September 2011, the Committee requested the State party to provide information on measures taken to conduct an independent assessment of

the negative effects of the construction of the two above-mentioned projects on the livelihood of the South Omo peoples and measures taken to consult them in an effective and appropriate manner.

36. In the course of its seventy-ninth session, the Committee considered the situation of indigenous peoples suffering persistent and intensified discriminatory acts and omissions in the north-eastern India. In a letter dated 2 September 2011, the Committee requested **India** to provide information on this issue and measures taken to implement the recommendations made by the Committee in its concluding observations of 2007 (CERD/C/IND/CO/19, paras. 12 and 19), for which follow-up information has been overdue since 5 May 2008.

37. The Committee considered at its seventy-ninth session allegations of threats and imminent irreparable harm for the Malind and other indigenous people of the District of Marueke, Papua Province, in **Indonesia.** The Committee expressed concern about the reportedly massive and non-consensual alienation of these peoples' traditional lands by the Marueke Integrated Food and Energy Estate project. It also noted the absence of response from the State party to its letter dated 28 September 2009. In its letter dated 2 September 2011, the Committee insisted on the importance of effectively seeking the free, prior and informed consent of these indigenous peoples before carrying out the project and of conducting environmental impact assessments. It requested a meeting with the representatives of the State party to discuss these issues at its next session in March 2012, and that the above-mentioned information be submitted by 31 January 2012.

38. During its seventy-ninth session, the Committee examined information received from the Government of **Paraguay**, in a letter dated 23 February 2011, about the situation of indigenous communities in the Chaco. The main issues raised were related to the social and economic situation of these communities and the delay in executing the most important aspects of the judgments handed down by the Inter-American Court of Human Rights concerning the Yakye Axa, the Sawhoyamaxa and the Xamok Kasek communities. Even though this information was submitted under the early warning and urgent action procedure, the Committee decided to address it during the interactive dialogue with the State party, held on 10 and 11 August 2011, the outcome of which is reflected in the concluding observations (CERD/C/PRY/CO/1-3, paras 16 and 17).

39. In the light of information received from the Government of **Peru**, in a letter dated 21 February 2011, the Committee further considered the situation of indigenous peoples of Urania District, Province of Loreto in the Peruvian Amazon. It requested the State party, in a letter of 2 September 2011, to provide information on measures taken to monitor and ensure the water quality of the Marañón River, and ensure the rights to consultation and free, prior and informed consent of the indigenous communities affected by the industrial activities.

40. Upon receiving updated information from a non-governmental organization, the Committee considered at its seventy-ninth session the alleged severe encroachment of lands traditionally belonging to Kalina indigenous community of Maho, in the District of Saramacca in **Suriname**, by non-indigenous parties. In its letter dated 2 September 2011, the Committee recalled its decisions 3 (62) of 12 March 2003, 1 (67) of 18 August 2005 and 1 (69) of 18 August 2006 and requested the State party to inform it of measures taken to comply with the Inter-American Commission on Human Rights decision on precautionary measures by 31 January 2012.

III. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

41. **Albania**

(1) The Committee considered the fifth to eighth periodic reports of Albania (CERD/C/ALB/5-8), submitted in one document, at its 2110th and 2111th meetings (CERD/C/SR.2110 and CERD/C/SR.2111), held on 22 and 23 August 2010. At its 2125th meeting (CERD/C/SR.2125), held on 1 September 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the State party report, although overdue since 2007. However, it regrets that the latter does not entirely conform to the Committee's guidelines on the form and content of reports (CERD/C/2007/1). The Committee encourages the State party to follow these guidelines in the preparation of the next periodic report.

(3) The Committee welcomes the resumption of dialogue held with a high-level delegation of the State party and the oral responses provided to the questions posed by Committee members.

B. Positive aspects

(4) The Committee notes with interest the following legislative and other measures taken by the State party:

(a) The preparations undertaken for the Census of Population and Housing, which is expected to be carried out later in 2011;

(b) Law 10221 on the protection against discrimination, of 4 February 2010, under which the Office of the Commissioner for Protection from Discrimination was established;

(c) The Action Plan of the Decade of Roma Inclusion, adopted in 2009;

(d) Law 10023 on amendments to the Criminal Code and Law 10054 on amendments to the Criminal Code, which provide for material and procedural provisions concerning the prosecution and punishment of criminal offences related to racism and discrimination in computer system, adopted, respectively, in November 2008 and December 2008;

(e) The Code of Ethics of Albanian Media, adopted in 2006;

(f) The establishment of the State Committee for Minorities, in 2004;

(g) The programmes, plans, policies, initiatives and measures taken since 2003 within the framework of the National Strategy on the improvement of Living Conditions of Roma Community in order to promote the rights of individuals belonging to the Roma minority.

(5) The Committee welcomes the ratification by the State party of the Convention on Cybercrime, which entered into force in July 2004, and the ratification of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, which entered into force in March 2006.

C. Concerns and recommendations

(6) The Committee reiterates its concerns about the lack of disaggregated data on the composition of populations relevant to the collection of information on racial discrimination in the State party's report. It notes the assurances of the State party that, in the Census of Population and Housing, which should be carried out later in 2011, minority groups will be designated on the basis of self-identification (arts. 1 and 2).

The Committee recommends that the census accurately reflect the situation of all vulnerable groups. The Committee encourages the State party to use the census as a departure point in collecting disaggregated data on the composition of its population and requests the State party to include the relevant updated information in its next periodic report. In this regard, the Committee wishes to draw the attention of the State party to paragraphs 10–12 of the guidelines on the form and content of reports (CERD/C/2007/1).

(7) The Committee reiterates its concern about the distinction in domestic law between national minorities (Greek, Macedonian and Serbian-Montenegrin minorities) and linguistic minorities (Roma and Aromanians). While noting the statement by the State party that this distinction does not have any effect on the rights enjoyed by persons belonging to such minorities, the Committee is nevertheless concerned that the justification of the distinction may be incompatible with principle of non-discrimination (art. 2).

The Committee reiterates its recommendation that the State party reconsider the criteria on the basis of which the distinction between national minorities and linguistic minorities is based, in consultation with the groups concerned, and ensure that there is no discrimination in terms of protection or enjoyment of rights or benefits, either across groups or across territory.

(8) While acknowledging the use by the State party of special measures to advance the enjoyment of rights by persons belonging to minority groups in specific areas, especially with regard to the promotion of access to education by Roma children, the Committee is concerned about the absence of a clear position by the State party on the application of special measures for the advancement of the rights of minorities and other disadvantaged groups (arts. 1 and 2).

The Committee, recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, recommends that the State party adopt clear principles regarding the use of special measures to advance the enjoyment without discrimination of the rights of individuals belonging to minorities and that, when adopting and implementing such measures, the targeted groups are appropriately consulted.

(9) While welcoming the information provided by the State party on the measures taken to strengthen the institutional framework against racism and racial discrimination, the Committee is concerned about the adequacy of resources allocated to their functioning, the lack of sufficient information provided regarding the coordination among these institutions and the apparent overlapping nature of some of their competencies. It is also concerned about allegations of inadequate or insufficient representations of certain minority groups in the State Committee on Minorities (art. 2).

The Committee recommends that the State party continue its efforts to strengthen the national institutional framework against racism and racial discrimination by, inter alia, allocating sufficient budgetary and human resources to ensure their proper functioning. The Committee also recommends that the State party ensure appropriate representation of self-identified minorities in the State Committee on Minorities. It

also requests that the State party include information in its next report on measures taken to ensure sufficient coordination and to prevent overlapping of functions and activities among different institutions related to the implementation of the Convention, as well as on measures to evaluate their work and impact.

(10) The Committee acknowledges the measures taken by the State party to harmonize its domestic legislation with the Convention. The Committee welcomes in this regard the legislation passed to prohibit the dissemination of racist ideas and hatred and incitement to racial discrimination. It also takes note of the draft law on minorities. It is, nevertheless, concerned by the absence of comprehensive legislation for combating racial discrimination and the absence of legislation criminalizing racist organizations and participation in such organizations (art. 4).

The Committee recommends that the State party adopt a comprehensive body of legislation effectively addressing all issues related to racial discrimination and, in line with the provisions of article 4 of the Convention, adopt specific legislation criminalizing racist organizations and the participation in such organizations, carry out consultations with minority groups regarding the draft law on minorities and include self-identification as one of the underpinning principles of such legislation.

(11) The Committee, while welcoming the adoption of a wide range of strategies and policies to improve the situation of the Roma minority, notes that the effectiveness and impact of these measures have not been sufficiently assessed. The Committee notes with interest the statement of the State party that both the National Strategy for Roma and the Action Plan of the Decade of Roma Inclusion are in the process of being evaluated (art. 5).

The Committee, recalling the general recommendation No. 27 (2000) on discrimination against Roma, urges the State party to fully implement all anti-discrimination policies that have been adopted with regard to the Roma minority in access to education, housing, employment, health and other social services and public places, to closely monitor and evaluate progress in implementation of these policies at national and local levels, and to make an assessment of the impact of the measures already implemented in its next periodic report.

(12) The Committee is concerned about the situation of Aromanians with regard to the enjoyment of rights without any discrimination.

The Committee recommends that the State party address the situation of persons belonging to the Aromanian minorities with regard to their rights to freedom of opinion and expression, to education and to have access to public services without any discrimination.

(13) The Committee regrets the lack of information about the extent to which persons belonging to minorities participate effectively in public and political life (art. 5).

The Committee reiterates its recommendation that the State party take necessary measures to ensure the effective participation of persons belonging to minorities in public and political life and provide information about the situation in its next periodic report.

(14) While welcoming the information provided by the State party regarding the measures being taken to address the situation of unregistered Roma, the Committee is concerned about the difficulties that many Roma still experience in obtaining personal documents, including birth certificates and identification cards (art. 5).

The Committee recommends that the State party take immediate steps to ensure that all Roma have access to the personal documents that are necessary for them to enjoy,

inter alia, their economic, social and cultural rights, such as employment, housing, health care, social security and education.

(15) The Committee reiterates its concern about allegations that members of the Roma minority, especially the young, face ethnic profiling and are subjected to ill-treatment and improper use of force by police officers. It regrets the absence of specific information in this regard by the State party (art. 5).

The Committee reiterates its recommendation that the State party take measures to halt such practices and to increase law enforcement officials' sensitivity to human rights and training in matters involving racial discrimination.

(16) While commending the efforts undertaken by the State party in the area of education for minorities, including the provision of education in their languages and courses on their native languages, the Committee regrets that effective enjoyment of the right to education is not guaranteed for all children from minorities and other vulnerable groups, many of whom do not have access to education in their own language (art. 5).

The Committee encourages the State party to step up its efforts to ensure effective access to education of children belonging to minority groups. The Committee also requests the State party to provide detailed information in its next periodic report, including disaggregated statistics, on enrolment in primary, secondary and higher education of members of minorities and other vulnerable groups.

(17) The Committee is deeply concerned about the poor living conditions and marginalization affecting members of the Egyptian community (art. 5).

The Committee encourages the State party to take effective positive measures, in consultation with the Egyptian community, to improve the access of its members to health, education, employment and other social services. The Committee also recommends that the State party respect the principle of self-identification for persons belonging to the Egyptian community.

(18) The Committee continues to be concerned about the situation faced by women belonging to minorities and the instances of multiple discrimination to which they may be subject (art. 5).

The Committee, recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, encourages the State party to monitor and, if necessary, take measures with regard to addressing multiple discrimination against women belonging to minority and other vulnerable groups.

(19) The Committee notes the lack of information on complaints of racial discrimination and the absence of court cases regarding racial discrimination (arts. 6 and 7).

In light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of cases may be due to the victims' lack of information about the existing remedies and therefore recommends that the State party ensure that the public at large is appropriately informed about their rights and the legal remedies available to their violation. The Committee further recommends that the State party provide more detailed information on future complaints and court cases in its next periodic report.

(20) The Committee welcomes the information provided by the delegation of the State party with regard to the cooperation with neighbouring States in connection with the promotion of the rights of persons belonging to minority groups. It also takes note of the intention of the State party to pursue close cooperation with regional organizations regarding the Roma minority.

The Committee encourages the State party to continue its efforts towards seeking cooperation with other States and regional organizations in addressing the problems faced by persons belonging to the Roma minority and other minority groups.

(21) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

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

(23) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(24) The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(25) The Committee 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 cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee 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 and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(27) Noting that the State party submitted its core document in 2003, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

(28) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011, the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(29) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 6, 7 and 14 above.

(30) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 9, 10, 11 and 12, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(31) The Committee recommends that the State party submit its ninth to eleventh periodic reports in a single document by 10 June 2015, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60–80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).

42. **Armenia**

(1) The Committee considered the fifth and sixth periodic reports of Armenia (CERD/C/ARM/5-6), submitted in one document, at its 2071st and 2072nd meetings (CERD/C/SR.2071 and CERD/C/SR.2072), held on 28 February 2011 and 1 March 2011. At its 2086th meeting, held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the report of the State party, which is in conformity with the Committee's guidelines, as well as the supplementary information provided orally by the delegation. The Committee also welcomes the resumption of dialogue with the State party and finds encouraging the frank and constructive responses provided to the questions and comments raised thereby.

B. Positive aspects

(3) The Committee welcomes the legislative, institutional and other measures taken by the State party since the examination of the combined third and fourth periodic reports of the State party in 2002, to combat racial discrimination and to promote tolerance and understanding among the various ethnic and national groups of its population. In particular, it notes with interest:

(a) The constitutional prohibition of discrimination on the grounds of, among others, race, colour, ethnic origin, genetic features and circumstances of personal nature;

(b) The inclusion of the prohibition of racial discrimination in a number of laws regulating various aspects of public life, such as in the Law on Television and Radio;

(c) The provision of the Criminal Code establishing ethnic and racial motives as circumstances aggravating liability and punishment;

(d) The establishment of various instruments with capacity for dialogue and consultation with national minorities, such as the Coordinating Council for National and Cultural Organizations of National Minorities and the Committee on National Minorities of the Public Council, and the creation of the Department of National Minorities and Religious Affairs which, among others, implements the Government's policy on national minorities;

(e) The efforts undertaken by the State party to promote the preservation, dissemination and development of the cultural heritage of national minorities and to provide education of national languages and literature for minorities; and

(f) The inclusion of human rights, issues concerning discrimination and intolerance as well as matters relating to national and racial minorities in the continuing and formal education programmes for the police.

(4) The Committee welcomes the creation in 2004 of the institution of the Human Rights Defender which is fully compliant with the Paris Principles and has mandate to consider complaints concerning violations of rights contained in the Convention.

(5) The Committee commends the State party for its active role with respect to the Durban Conference and the preparatory works leading to the Review Conference.

(6) The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities in 2010 and the Optional Protocols to the Convention on the Rights of the Child in 2005, to the Convention against Torture in 2006 and to the Convention on the Elimination of All Forms of Discrimination against Women in 2006.

(7) The Committee also welcomes the ratification by the State party of human rights treaties prohibiting discrimination within the Council of Europe and the Commonwealth of Independent States.

C. Concerns and recommendations

(8) While noting that the State party's Constitution accords primacy to international instruments over domestic laws and that, according to the State party's statement, provisions of international treaties have been invoked in courts, the Committee remains concerned that as many provisions of the Convention are not self-executing, the legislation of the State party does not currently give full effect to all articles of the Convention.

The Committee particularly draws the attention of the State party to the absence of a legal prohibition of organizations involved in activities promoting and inciting racial discrimination, as required by article 4 (b) of the Convention. Moreover, the Committee regrets that it has not been given information on legal provisions relating to racial segregation. (arts. 2, 3 and 4)

The Committee urges the State party to continue to bring its legislation into line with the Convention and asks the State party to include in the next periodic report the relevant extracts of the laws covering the activities proscribed in articles 3 and 4 of the Convention, as well as information on any judicial decision relating thereto.

Moreover, the Committee encourages the State party to strengthen efforts to ensure the effective implementation of the laws adopted in recent years to combat racial discrimination and to monitor that they achieve the objectives for which they have been adopted.

(9) The Committee notes the absence of complaints of acts of racial discrimination lodged with courts and other relevant authorities during the reporting period (art. 6).

Recalling its general recommendation No. 31 (2005) on the functioning and administration of the criminal justice, the Committee is of the view that absence of complaints of acts of racial discrimination cannot be understood as absence of racism or racial discrimination and that it can be the result of lack of awareness of their rights by victims, fear of reprisals, complex judicial procedures limiting the effective access to remedies by victims, lack of confidence in the judicial authorities or unwillingness of competent authorities to institute legal proceedings.

The Committee therefore calls on the State party to:

(a) Raise awareness of what is understood by racial discrimination, as defined by article 1 of the Convention and the State party's Constitution, among the population in general and minorities in particular;

(b) Inform the public, and particularly vulnerable groups, such as minorities, non-nationals, refugees and asylum-seekers, of legislation on racial discrimination and of avenues of redress available;

(c) Consider reviewing the rules of proof in the State party's legislation by reversing or sharing its burden where complaints of racial discrimination are pursued under civil law, in view of the difficulty in substantiating claims of racial discrimination.

The Committee requests that the State party provide in its next periodic report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings.

(10) While noting the relatively homogenous makeup of the population of the State party, the Committee still regrets the absence of reliable data on the actual composition of its population.

The Committee requests the State party, on the basis of the census to be held in 2011 and with respect to the principle of self-identification, to include in its next periodic report up-to-date data on the composition of its population, including Assyrians, Azeris, Roma and other small ethnic groups. In this regard, the Committee refers the State party to paragraphs 11 and 12 of its reporting guidelines (CERD/C/2007/1) and to general recommendations No. 4 (1973) and No. 24 (1999) respectively on demographic composition of the population and on reporting of persons belonging to different races, national/ethnic groups. The Committee further requests data on women from those groups.

(11) The Committee regrets that, while the political situation within the South Caucasus region has brought a substantial number of refugees to the State party and has displaced a sizable number of persons internally, little information on the situation of these groups has been provided in the State party's report and during the dialogue (art. 5).

The Committee calls on the State party to include in its next report detailed information on the situation of refugees and internally displaced persons on its territory, particularly in relation to the effective enjoyment of rights under article 5 of the Convention, including an update on the housing problem.

(12) While noting the extensive information provided in the State party's report on the legal provisions guaranteeing non-discrimination in the enjoyment of rights contained in article 5 of the Convention, the Committee regrets the lack of disaggregated statistical data regarding the de facto enjoyment by national minorities and non-citizens, of the rights protected under the Convention, as without such data, it is difficult to assess the socio-economic situation of different groups in the State party (arts. 1 and 5).

Recalling the importance of accurate and up-to-date data on the socio-economic situation of the various groups of the population in understanding the situation of all ethnic groups and other vulnerable groups, and in identifying indirect discriminatory situations, the Committee calls upon the State party to provide data on the situation of all ethnic and vulnerable groups, including non-citizens, bearing in mind the Committee's general recommendation No. 30 (2009) on non-citizens, mainly in employment, education and housing.

The Committee also requests that the State party include in the report information on special measures adopted to secure to any disadvantaged group the equal enjoyment of the rights outlined in article 5. The Committee refers the State party to its general recommendation No. 32 (2009) on the meaning and the scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.

(13) While noting with interest the various mechanisms in place to support the dialogue with minorities, the Committee remains concerned that these mechanisms are of consultative nature and cannot substitute the participation of minorities in public life. The

Committee further regrets the lack of information on participation of minorities in elected and public bodies (arts. 2 and 5).

Recalling the State party's obligation of results in this area, the Committee is of the view that legal guarantees of equal right to be elected are not sufficient as regards political participation of minorities and reiterates its previous recommendation calling on the State party to secure due representation of minorities in the National Assembly and other public bodies (A/57/18, para. 278), including by the adoption of special measures.

(14) The Committee notes with concern the existence in the State party of a political organization which has called for the expulsion of some ethnic groups from the territory of the State party. The Committee also notes the information provided by the State party as regards the legal actions brought against the leader of the organization (art. 4).

The Committee urges the State party to comply with its obligation to outlaw any organization which promotes or incites racial discrimination, as prescribed by article 4 (b) of the Convention.

(15) While commending the efforts undertaken by the State party in the area of education for national minorities, including the provision of education in their languages and courses on their native languages and literature, the Committee regrets that effective enjoyment of the right to education is not guaranteed for all children from national minorities and other vulnerable groups, such as refugees and asylum-seekers, and that very few of them achieve higher education despite the implementation of measures such as affording priority to candidates from national minorities who have passed the university entry exams (art. 5).

The Committee encourages the State party to strengthen efforts to ensure effective access to education and calls on the State party to:

(a) Expand the implementation of the sample curriculum of general education schools of national minorities and the training of national minorities' teachers;

(b) Consider providing language support in pre-school education in areas with compact minority population so as to facilitate the integration of minority pupils into mainstream education;

(c) Increase efforts to promote access to higher education for children from national minorities and other vulnerable groups.

The Committee also requests the State party to provide detailed information, including disaggregated statistics on enrolment in primary, secondary and higher education of members of national minorities and other vulnerable groups in its next periodic report.

(16) The Committee notes with concern that while the State party is aware of conservative customs determining relationships between men and women, and between adults and children, within the Yezidi and Kurdish communities, which impede the equal enjoyment and exercise of rights, its programmes and activities in favour of national minorities have failed to address these issues (art. 5).

Recalling the State party's obligation to guarantee the right of everyone to equality in the enjoyment of human rights, the Committee calls on the State party to take account of the need to address discriminatory customs in its work with national minorities. In particular, the Committee calls on the State party to take account, when implementing the Gender Policy Concept Paper, of the double discrimination faced by women from minorities. In this regard, the Committee draws the attention of the State party to its

general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

(17) The Committee takes note of racial incidents as reported by the Human Rights Defender and the media in the State party. The Committee further notes that information on prevailing sentiment of suspicion towards foreigners among its population may be indicative of xenophobic attitude and prejudice (art. 7).

The Committee calls on the State party to remain vigilant regarding any racial incidents and to pursue its policy of combating any manifestation of discrimination against individuals and groups. The Committee also calls on the State party to carry out preventive action including by conducting a study on its population's attitude towards foreigners and through education of the general public in a spirit of tolerance, understanding and respect for diversity. In this regard, while acknowledging the provision of human rights education in schools, the Committee encourages the State party to pay particular attention to the role of the media in human rights education.

(18) The Committee recommends that the State party take account of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, in the preparation and implementation of the National Programme on Human Rights Protection. The Committee refers the State party to its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference.

(19) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

(20) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the international human rights treaties to which it is not a party, in particular treaties whose provisions have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families..

(21) The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(22) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urges States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(23) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report and the implementation of the Committee's recommendations.

(24) 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 observations of the

Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(25) Noting that the State party submitted its core document in 1995, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

(26) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 13, 14 and 17 above.

(27) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 8, 9, 12 and 15, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(28) The Committee recommends that the State party submit its seventh to eleventh periodic reports in a single document, due on 23 July 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. Noting that the combined fifth and sixth reports were six years overdue, the Committee invites the State party to observe the deadlines set for the submission of its reports in the future. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

43. **Bolivia (Plurinational State of)**

(1) The Committee on the Elimination of Racial Discrimination considered the seventeenth to twentieth periodic reports of the Plurinational State of Bolivia, submitted in a single document (CERD/C/BOL/17-20), at its 2053rd and 2054th meetings (CERD/C/SR.2053 and 2054), held on 15 and 16 February 2011. At its 2078th meeting (CERD/C/SR.2078), held on 4 March 2011, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the periodic reports submitted by the State party and welcomes its high-level delegation. It appreciates the updated information that the delegation provided verbally, as well as its replies to Committee members' questions and comments.

(3) The Committee notes with interest the legal, political and institutional reforms that the State party is undertaking, and it views this process as an opportunity to bolster the collective effort to build a pluralistic and inclusive society in the face of considerable challenges to the elimination of discrimination against and exclusion of indigenous peoples and other vulnerable groups. The Committee wishes to encourage the State party to pursue this process of change.

(4) The Committee welcomes the active participation of representatives of civil society and their dedication to eliminating racial discrimination.

B. Positive aspects

(5.) The Committee welcomes the State party's recent ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol (2009) and the International Convention for the Protection of All Persons from Enforced Disappearance.

(6) The Committee notes with satisfaction that the State party has introduced the United Nations Declaration on the Rights of Indigenous Peoples into its domestic legal order through Act No. 3760.

(7) The Committee welcomes the new Constitution of 2009, which is the result of a process that embraced historically excluded sectors of the population. It notes that the Constitution upholds a wide range of human rights that reinforce the application of the Convention, such as:

(a) The prohibition and punishment of discrimination;

(b) The recognition of indigenous original campesino peoples and nations and their rights;

(c) The recognition of Afro-Bolivian communities and their rights;

(d) The recognition of the indigenous original campesino justice system;

(e) The promotion of agrarian reform and the granting of land to indigenous original campesino people, intercultural communities of original peoples, Bolivians of African descent and campesino communities whose members have no land or insufficient land;

(f) Profit-sharing when natural resources are extracted from the territories of indigenous original campesino peoples and nations;

(g) The right to request and receive asylum or refuge on grounds of political or ideological persecution, and the principle of non-refoulement to a country where the life, integrity, security or freedom of the person concerned is at risk.

(8) The Committee notes with interest the establishment of the new Office of the Deputy Minister for Decolonization and the Directorate-General for the Struggle against Racism and All Forms of Discrimination in 2009.

(9) The Committee welcomes the adoption of the legislative instruments needed to combat racial discrimination, such as the Act on the Elimination of Racism and All Forms of Discrimination (Act No. 045) of 2010, as a substantive foundation for the design of policies to prevent racism and discriminatory behaviour. The Committee also notes that the aforementioned Act contains a definition of racial discrimination that is compatible with the definition set forth in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

(10) The Committee welcomes the national human rights action plan, entitled "Bolivia: Dignity for a Good Life", approved in 2008, which establishes priorities for human rights action and includes a section on designing policies on racism and discrimination.

C. Concerns and recommendations

(11) While noting the progress that the State party has achieved in combating racial discrimination and the efforts it has made to formulate a national action plan against racism and discrimination, the Committee is concerned about the failure to apply the principle of non-discrimination in practice, the prejudices and stereotypes existing in society, and persistent tensions in the State party, all of which pose an obstacle to intercultural acceptance and the creation of an inclusive and pluralistic society (arts. 2 and 7).

The Committee encourages the State party to intensify its awareness campaigns aimed at combating racial discrimination, stereotypes and all existing forms of discrimination. It also recommends that the State party actively pursue programmes to promote intercultural dialogue, tolerance and mutual understanding of the diversity of the different peoples and nations of the State party. The Committee encourages the State party to effectively implement the Convention through a national action plan against racism and discrimination and notes that such a plan is currently being discussed and drafted. It considers that particular emphasis should be placed on combating discrimination, prejudice and racism throughout the country and that this should be accomplished by, inter alia, allocating adequate human and financial resources for the plan's implementation.

(12) The Committee is concerned about the lack of reliable statistical data in the State party's report regarding indigenous original campesino peoples, Bolivians of African descent and all groups that make up Bolivian society. While noting with interest the information provided about the next census to be held in the State party, the Committee expresses its concern about the lack of clarity concerning the methodological tools to be used in the census to guarantee the right to self-identification (art. 2, para. 1 (a)–(d)).

The Committee reminds the State party that disaggregated data are needed in order to develop suitable public policies and programmes for the population and to evaluate the implementation of the Convention as it relates to the groups that make up society. The Committee also reminds the State party of paragraph 11 of its guidelines on the presentation of reports (CERD/C/2007/1) and recommends that, in its next periodic report, the State party include updated, disaggregated statistics on indigenous original campesino peoples and Bolivians of African descent. It also recommends that the State party develop reliable, appropriate statistical tools to ensure self-identification in the 2012 census and to ensure the full and effective participation of indigenous original campesino peoples and Bolivians of African descent in all stages of the census process and the inclusion of peoples in geographically remote locations.

(13) While the Committee notes with appreciation that the Constitution recognizes the equal civil and political rights of indigenous communities and the advances made in the representation of indigenous peoples in the Government at the highest level, it is concerned that, in practice, members of these communities continue to be subjected to discrimination and are underrepresented in all Government and decision-making bodies. It is concerned that the Electoral System Act, by providing for only 7 seats from special electoral districts out of a total of 130 seats, contravenes both the Constitution and the Convention. The Committee is particularly concerned about the situation of women, who suffer from multiple and intersectional discrimination on the basis of their ethnic origin as well as their gender, occupation and poverty (art. 2 and art. 5 (b) and (c)).

The Committee recommends that the State party take the necessary measures under, inter alia, the Electoral System Act, to guarantee political representation for indigenous original campesino peoples and nations. The Committee recommends that the State party take into consideration the Committee's general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination and general recommendation No. 32 (2009) on special measures or affirmative action. It further recommends that the State party consider taking special measures to guarantee the proper representation of indigenous communities, and of women in particular, at all levels of government service and in all social participation mechanisms.

(14) While it notes with interest that the State party recognizes the existence of Bolivians of African descent and their rights in its Constitution, the Committee reiterates its concern about the lack of visibility and the social exclusion of Afro-Bolivian Communities (CERD/C/63/CO/2, para. 15) and about the lack of social and educational indicators

regarding this group. The Committee is concerned that these communities continue to suffer discrimination in the exercise of their economic, social and cultural rights and are significantly underrepresented in public office and government positions (arts. 2 and 5 (c) and (e)).

The Committee reiterates its previous recommendation and urges the State party to adopt the necessary measures, including legislative measures and general national budget measures, to guarantee the equality of rights, including equal civil and political rights such as the right to education, housing and employment. The Committee urges the State party to adopt mechanisms to ensure the participation of Afro-Bolivian communities in the design and approval of public policies and norms and in the implementation of projects affecting them.

(15) The Committee regrets the fact that some organizations, media and journalists in the State party use racial hate speech and act in a discriminatory manner, that they spread racial stereotypes and expressions of hatred against persons belonging to indigenous original campesino peoples and nations and Bolivians of African descent, and that they incite racial discrimination. While taking due note of the new articles 281 septies and octies of the Criminal Code, which refer to private individuals, the Committee regrets the lack of a specific provision in the Criminal Code of the State party that prohibits organizations and propaganda activities from inciting racial hatred, in keeping with article 4 (b) of the Convention (arts. 2, 4 (b) and 7).

The Committee recommends that the State party amend its Criminal Code in order to fully implement the provisions of article 4. The Committee also recommends that the State party devote particular attention to the social role of the media in improving human rights education and that it establish a code of ethics to ensure responsible journalistic practice. It recommends that the State party strengthen measures to combat racial prejudice that leads to racial discrimination in the media and in the press through education and training for journalists and for persons working with the media in order to increase awareness about racial discrimination in the population at large.

(16) While taking note of the human rights curriculum for all schools in the State party, the Committee regrets the fact that young people are participating in organizations that promote discrimination and racial hatred (arts. 4 and 7).

The Committee reminds the State party of the essential role of education in promoting human rights and combating racism, and recommends that the State party strengthen human rights education in its national curricula by making it more explicit and interdisciplinary.

(17) The Committee regrets the occurrence of conflicts and acts of racist violence against members of indigenous original campesino peoples and nations, some of which have resulted in deaths, and notes that these incidents have become worse since 2006 and have included clashes in Cochabamba, Chuquisaca, Santa Cruz and Pando. The Committee is concerned at the impunity that continues to prevail in respect of the majority of the human rights violations perpetrated during these incidents and at the delays in their investigation (arts. 4–6).

The Committee reaffirms the duty of the State party to put an end to impunity for these acts and urges it to expedite the administration of justice, the investigation of the complaints, and the identification and prosecution of the perpetrators and to guarantee victims and their family members an effective remedy. It also recommends that the State party demonstrate the political will to carry out the necessary measures, including educational and public policies, in order to create and promote forums for dialogue and understanding among the members of society.

(18) While taking due note of the restitution of land and clarification of land title as part of the State party's efforts to abolish servitude and slavery in Guaraní territory, the Committee expresses its concern at the continued captivity of indigenous peoples and at the systematic violation of the human rights of members of these communities. In addition, the Committee regrets that the Transitional Inter-ministerial Plan for the Guaraní People came to an end in 2009 without all of its objectives having been met and without provision having been made for its continuation by means of comprehensive measures. The Committee notes, in particular, the difficulties that have been and continue to be encountered by persons belonging to the Guaraní people in exercising their rights (arts. 4 and 5).

The Committee recommends that the State party adopt urgent measures to guarantee the full exercise of the rights of the Guaraní people, including an acceleration of the recovery of their ancestral lands. It recommends that the State party intensify its efforts to prevent, investigate and duly prosecute contemporary forms of slavery and to guarantee access to justice for the Guaraní people. The Committee also encourages the State party to establish, as a matter of urgency and in consultation with the Guaraní communities, a comprehensive and adequately funded development plan that specifically addresses the needs of the Guaraní people. This plan should focus on capacity-building and creating conditions of equality in order to ensure the Guaraní people's enjoyment of their rights. It further recommends that the State party undertake initiatives to raise the general public's awareness of the need to eradicate forced labour and servitude and that it continue its cooperation with the relevant specialized agencies of the United Nations in this regard.

(19) The Committee regrets the persistence of threats and physical attacks against human rights defenders, especially those defending the interests of indigenous peoples (see the previous concluding observations of the Committee in the document bearing the symbol CERD/C/63/CO/2, paragraph 14) (art. 5).

The Committee reiterates its previous recommendation in its entirety and urges the State party to take all necessary measures for the protection of human rights defenders against any act of intimidation or reprisal or any arbitrary action as a consequence of their activities, including interference with their efforts to secure external funding. The Committee also reiterates that the State party should take into account its general recommendation No. 13 (1993) on the training of law enforcement officials in the protection of human rights and encourages the State party to improve the training of law enforcement officials, especially police officers, so that the standards of the Convention are fully met.

(20) While recognizing the existence of the constitutional right to consultation of the indigenous original campesino and Afro-Bolivian peoples and nations, the Committee is concerned at the difficulties surrounding the exercise of this right in practice. It is concerned at the lack of regulations governing consultations with the above-mentioned peoples and nations in all sectors other than the hydrocarbons industry. It is also concerned at the fact that, even where mechanisms have been set up for consultations for the purpose of obtaining the free, prior and informed consent of the communities, such consultations are not carried out systematically with regard to natural resource development projects or regional infrastructure projects. In this connection, the Committee expresses its concern at the violation of the constitutional right of consultation in respect of the Coro Coro mining project (arts. 5 and 6).

The Committee urges the State party to establish practical mechanisms for implementing the right to consultation in a manner that respects the prior, free and informed consent of the affected peoples and communities and to ensure that such consultations are carried out systematically and in good faith. It also recommends that

impact studies be carried out by an independent body before authorization is given for natural resource exploration and production in areas traditionally inhabited by indigenous original campesino and Afro-Bolivian peoples and nations. It also recommends that the State party request technical assistance from the Office of the United Nations High Commissioner for Human Rights and from the International Labour Organization to that end. The Committee further recommends that the indigenous original campesino and Afro-Bolivian peoples and nations be guaranteed access to the courts or to any special independent body established for this purpose so that they may defend their traditional rights, their right to be consulted before concessions are awarded and their right to receive fair compensation for any harm or damage suffered.

(21) The Committee is concerned at reports of discrimination and hostility against migrants in the State party and the particular vulnerability of asylum-seekers, unaccompanied foreign children and trafficked women. The Committee is also concerned about asylum-seekers' lack of identity documents, cases of arbitrary refoulement of refugees and the lack of national legislation consistent with international standards of protection of refugees (art. 5).

The Committee encourages the State party to develop legislation establishing the rights of refugees and providing that identity documents are to be issued free of charge and to furnish appropriate ongoing training for public officials, including border agents, to ensure that they do not make use of procedures that violate human rights. The Committee recommends that the State party continue to cooperate with the Office of the United Nations High Commissioner for Refugees and urges it to ensure that no refugees are forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations. The Committee calls on the State party to step up its efforts to develop and implement educational campaigns to change the public's perceptions and attitudes so as to combat racial discrimination in all sectors of society.

(22) While it notes with interest the coexistence of different legally recognized justice systems, the Committee regrets that, inasmuch as certain personal, material and territorial matters are not included within the scope of the indigenous justice system, that system is not in line with the Constitution or the Convention and does not correspond to the actual situation of coexistence between indigenous and non-indigenous persons. The Committee is concerned that, in practice, there are sectors of the population that continue to face difficulties in accessing justice, in particular indigenous people and women, and it reiterates its concern about difficulties in gaining access to legal remedies in cases of offences which relate to racial discrimination (CERD/C/63/CO/2, para. 17). It is also concerned about the lack of clarity in the Jurisdiction Demarcation Act with regard to levels and mechanisms of coordination and cooperation between the indigenous original campesino justice system and other judicial systems in the State party (arts. 4, 5 (a) and 6).

The Committee recommends that the State party provide for the amendment of the Jurisdiction Demarcation Act. It also urges the State party to continue its efforts to establish a domestic legal system that gives full effect to the provisions of the Convention and to ensure compliance with international human rights standards and effective and equal access for all citizens to remedies through the competent national courts and other State institutions against any act of racial discrimination or related intolerance.

(23) In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when the State party incorporates the Convention into its domestic legal system, it take account of the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against

Racism, Racial Discrimination, Xenophobia and Related Intolerance, and 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 Declaration and Programme of Action at the national level.

(24) The Committee recommends that the State party prepare, carry out and publicize in the media a suitable programme of activities to commemorate the year 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (General Assembly resolution 64/169 of 18 December 2009).

(25) The Committee takes note of the State party's position and recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the 14th meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee recalls General Assembly resolution 61/148 of 19 December 2006 and resolution 63/243 of 24 December 2008, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(26) The Committee notes with appreciation that the State party makes its reports readily available to the public as soon as they are submitted and recommends that it ensure that the Committee's concluding observations are also publicized and disseminated in the official languages and other commonly used languages, as appropriate.

(27) The Committee notes that the State party submitted its core document in 2004 and encourages it to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.

(28) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 17 and 21 above.

(29) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 11, 13, 20 and 22 and requests that it include detailed information in its next periodic report on the specific measures that it has taken to implement these recommendations.

(30) The Committee recommends that the State party submit its twenty-first through twenty-fourth periodic reports in a single document by 1 October 2013 and notes that, in preparing those reports, it should follow the specific guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and should address all points raised in these concluding observations. The Committee urges the State party to observe the 40-page limit for treaty-specific reports and the 60–80 page limit for the common core document (see the harmonized guidelines on reporting contained in document HRI/GEN.2/Rev.6, paragraph 19).

43. **Cuba**

(1) The Committee on the Elimination of Racial Discrimination considered the fourteenth to eighteenth periodic reports of Cuba, submitted in a single document (CERD/C/CUB/14-18), at its 2055th and 2056th meetings (CERD/C/SR.2055 and 2056), held on 16 and 17 February 2011. At its 2077th meeting (CERD/C/SR.2077), held on 3 March 2011, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the report submitted by the State party and the opportunity thus offered to resume its dialogue with the State party after an interval of more than 12 years. The Committee invites the State party to submit its future reports regularly and in full conformity with the guidelines for the presentation of reports (CERD/C/2007/1).

(3) The Committee welcomes the presence of a large, high-level delegation and expresses its appreciation for the extensive and detailed replies given to the many questions that it asked.

B. Positive aspects

(4) The Committee notes with interest the establishment of a series of commissions to analyse and study racial discrimination in Cuba, such as the Commission against Racism and Racial Discrimination of the Cuban Writers and Artists Union (UNEAC) and the inter-agency commission coordinated by the José Martí National Library.

(5) The Committee also notes with interest the establishment of a coordinating group under the direction of the Central Committee of the Communist Party of Cuba to examine the issue of race and propose relevant actions.

(6) The Committee welcomes the programme of activities for 2011 in commemoration of the International Year for People of African Descent (resolution 64/169 of 18 December 2009).

(7) The Committee is pleased that the State party is participating, through the Fernando Ortiz Foundation, in the Slave Route Project that the United Nations Educational, Scientific and Cultural Organization (UNESCO) has been carrying out since 1994.

(8) The Committee, aware of the economic obstacles facing the country, notes with appreciation the advances that it has made towards achieving the Millennium Development Goals and is pleased to see that several of the targets have already been reached and that significant progress has been made towards attaining others.

C. Concerns and recommendations

(9) The Committee regrets that the information contained in the State party's periodic report is not sufficiently specific and, in particular, that information on the practical implementation of national legislation on racial discrimination is lacking.

The Committee wishes to remind the State party that the periodic reports to be submitted under article 9 of the Convention should reflect in all their parts the actual situation as regards the practical implementation of the Convention and should include information on progress achieved during the reporting period (CERD/C/2007/1, para. 6).

(10) The Committee regrets that it has not received information on proceedings initiated or sentences handed down during the reporting period for the commission of acts that run counter to the Convention, as provided for by article 295 of the Criminal Code. While the Committee takes note of the delegation's explanations about the mandate and functions of the Office of the Attorney General of the Republic, it remains concerned by the lack of reported cases, prosecutions and convictions relating to acts of racial discrimination during the reporting period (art. 6).

In reference to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of cases may be due to the victims' lack of information about the existing remedies, and it therefore recommends that the State party ensure that national legislation contains appropriate provisions regarding

effective protection and remedies against violation of the Convention and that the public at large is properly informed about their rights and the legal remedies available if those rights are violated.

(11) The Committee notes with concern that the State party's criminal legislation does not classify racial motivation as an aggravating circumstance with regard to criminal responsibility (arts. 4 and 6).

The Committee recommends that the State party amend its legislation to make racial motivation an aggravating circumstance in the commission of crimes.

(12) The Committee takes note of article 120 of the Criminal Code, which provides for punishments of from 10 to 20 years' imprisonment or the death penalty for the crime of apartheid (art. 4).

While it notes with appreciation the classification of apartheid as a criminal offence, the Committee invites the State party to consider the possibility of abolishing the death penalty or, failing that, to formalize the current de facto moratorium on the death penalty.

(13) The Committee notes that the State party has still not made plans to establish an independent body to monitor, supervise and assess the progress made in combating racism and racial discrimination, identify manifestations of indirect discrimination and submit proposals for improvements (art. 2, para. 1).

The Committee encourages the State party to set up such an independent body or to establish an independent national human rights body, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

(14) While the Committee notes the State party's opinion that "racial prejudices have little place in today's Cuba" and are "expressed mostly in the most intimate areas of life, usually in the relations between couples", it remains concerned by the prevalence of deeply rooted negative racial stereotypes and prejudices and by their sexist dimension (arts. 5 and 7).

The Committee encourages the State party to continue its efforts to put an end to racial stereotypes and prejudices, particularly through awareness campaigns and public education programmes in schools and in the workplace. The Committee urges the State party to ensure that the media avoids stereotypes based on racial discrimination.

The Committee reminds the State party of the need to mainstream a gender perspective into all policies and strategies for combating racial discrimination in order to counteract the multiple forms of discrimination to which women may be subject, bearing in mind general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

(15) While noting the State party's efforts to increase representation of the black and mestizo population in public service positions, the Committee is aware of the difficulty of identifying policies that might successfully rectify the situation of groups that historically have been excluded as a result of the combined effects of racial discrimination and economic deprivation (art. 2, para. 1 (a) and (b)).

The Committee welcomes the special measures and affirmative action taken to improve representation of the population of African descent within public service and State enterprises and encourages the State party to step up its efforts to this end, taking into account the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures.

The Committee urges the State party to actively monitor the incidence of racial discrimination in those segments of the population where levels of exclusion or economic marginalization remain high.

(16) The Committee takes note of the information provided by the delegation on measures adopted by the State party to combat trafficking in human beings, particularly trafficking in women and children for the purpose of sexual exploitation, but regrets the lack of information on the scale of the domestic trafficking problem and its incidence among the population of African descent (art. 5 (b)).

The Committee requests that the State party include in its next periodic report detailed information, disaggregated by sex, age, ethnic group and nationality of the victims, on the number of investigations, convictions and sentences handed down in cases of trafficking in human beings for purposes of sexual or labour exploitation.

(17) The Committee takes note of information provided by the delegation which indicates that the Cuban authorities are close to concluding their study of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) (art. 5 (b)).

The Committee encourages the State party to accelerate its ratification procedures in respect of the Palermo Protocol.

(18) The Committee takes note of the information provided by the delegation on current initiatives to amend the legislation governing migration (Act No. 1312 on Migration and Act No. 1313 on the Status of Foreigners, both of 1976) and the 1948 Citizenship Act. It regrets, however, the fact that very little official information is available on irregular immigration in the period under consideration and, in particular, arrivals of Haitian boat people and their subsequent repatriation under the Tripartite Memorandum of Understanding signed by Cuba, Haiti and the International Organization for Migration (IOM) in February 2002 (art. 5 (d) and (e)).

The Committee recommends that the State party amend its legislation on migration and the status of foreigners and its laws on citizenship without delay in order to prevent statelessness.

In accordance with general comments Nos. 11 (1993) and 30 (2004) on non-citizens, the Committee urges the State party to guarantee respect for the rights and freedoms of non-citizens present in Cuban territory, regardless of whether or not they have documentation or whether their status is regular or irregular.

(19) The Committee is concerned about the lack of an enabling legal framework for the local integration of persons present in Cuban territory who require international protection (art. 5, subparas. (d) and (e)).

The State party should adopt the legislative and administrative measures necessary to guarantee protection for refugees, asylum-seekers and stateless persons.

The Committee strongly encourages the State party to consider the possibility of ratifying the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

(20) The Committee takes notes with concern of the explanation provided by the State party in relation to the application of article 215 of the Criminal Code, which establishes that illegal entry into Cuban territory is a criminal offence and that border control personnel "shall return all persons who attempt to enter the country without satisfying immigration requirements" (art. 5).

The Committee would like to have additional information on the mechanisms in place to ensure that decisions concerning the return or expulsion of foreigners at Cuban borders conform to the standards and principles established in international human rights law, in particular the principle of non-discrimination.

(21) The Committee urges the State party to ratify the international human rights treaties that it has not yet ratified, particularly those instruments that are directly related to racial discrimination, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which were signed by Cuba in February 2008, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(22) In the light of its general comment No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when the State party incorporates the Convention into its domestic legal order, it give effect to the Durban Declaration and Programme of Action, approved in September 2001 at 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 specific information in its next periodic report on action plans and other measures adopted to implement the Durban Declaration and Programme of Action in the country.

(23) The Committee 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 of 16 December 1992. In this connection, the Committee refers to General Assembly resolution 61/148 of 19 December 2006 and to General Assembly resolution 63/243 of 24 December 2008, 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.

(24) The Committee recommends that the State party continue its consultations and expand its dialogue with civil society organizations working to protect human rights, particularly those working to combat racial discrimination, in connection with the preparation of its next periodic report.

(25) Noting that the State party submitted its core document (HRI/CORE/1/Add.84) in June 1997, the Committee invites the State party to submit its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those relating to preparation of the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (see HRI/GEN/2/Rev.4, first section).

(26) The Committee encourages the State party to consider the possibility of making the optional declaration provided for in article 14 of the Convention whereby it would recognize the competence of the Committee to receive and consider communications from individuals.

(27) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information within one year of the adoption of the present concluding observations on its follow-up to the recommendations contained in paragraphs 10, 14 and 20 above.

(28) The Committee wishes to draw the State party's attention to the particular importance of the recommendations contained in paragraphs 11 through 13 and requests that the State party provide detailed information in its next periodic report on the specific measures taken to act upon these recommendations.

(29) The Committee recommends that the State party submit its nineteenth to twenty-first periodic reports in a single document by 16 March 2013 at the latest and notes that, in preparing those reports, it should follow the guidelines for the Committee-specific document adopted by the Committee at its seventy-first session (CERD/C/2007/1) and that it should address all of the points raised in the present concluding observations. The Committee also urges the State party to observe the 40-page limit for treaty-specific reports and the 60–80 page limit for the common core document (see the harmonized guidelines on reporting contained in document HRI/GEN/2/Rev.6, para. 19).

45. **Czech Republic**

(1) The Committee considered the eighth and ninth periodic reports of the Czech Republic (CERD/C/CZE/8-9), submitted in one document, at its 2106th and 2107th meetings (CERD/C/SR.2106 and CERD/C/SR.2107), held on 18 and 19 August 2011. At its 2121st meeting (CERD/C/SR.2121), held on 30 August 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the timely submission of the combined eighth and ninth periodic report, which was prepared in line with the reporting guidelines (CERD/C/2007/1). It expresses its appreciation for the dialogue held with the large delegation of the State party and for comprehensive responses to the questions of the Country Rapporteur and Committee members. The Committee also welcomes the updated common core document transmitted by the State party.

B. Positive aspects

(3) The Committee welcomes legislative and institutional steps taken by the State party during the period under review, including:

(a) The enactment in 2009 of Act No. 198/2009 on equal treatment and on legal means of protection against discrimination (the Anti-Discrimination Act);

(b) The amendment in 2009 of paragraph 133 a of the Rules of Civil Procedure (Act No. 99/1963) reversing the burden of proof in cases of racial discrimination;

(c) The amendment in 2008 of the Penal Code (Act No. 40/2009) establishing racial motive as an aggravating circumstance for a number of crimes;

(d) The amendment in 2006 of the Labour Code (Act No. 262/2006) prohibiting any discrimination against employees;

(e) The amendment of the Civic Associations Act (Act No. 83/1990) creating the same conditions of association for all, regardless of citizenship;

(f) The adoption of a National Action Plan in the context of the international initiative Decade of Roma Inclusion 2005–2015;

(g) The adoption of the 2008–2012 Strategy for the Work of the Czech Police Force in Relation to Minorities;

(h) The adoption of the 2008–2010 National Action Plan for Social Inclusion and the establishment of the Agency for Social Inclusion in Roma localities in 2008;

(i) The Supreme Administrative Court decision of 2010 dissolving the Workers Party for its advocacy of neo-Nazi ideology and expressions of opposition to immigrants and minorities;

(j) The extension of the Concept of Roma integration for the period 2010–2013;

(k) Awareness-raising activities organized on Roma culture, history, and the Roma Holocaust.

(4) The Committee also welcomes the ratification by the State party of the following international instruments:

(a) Convention on the Rights of Persons with Disabilities in 2009; and

(b) Rome Statute of the International Criminal Court in 2009.

(5) Furthermore, the Committee acknowledges the contribution of the State party at the subregional and European levels to address the issue of discrimination against Roma in Europe. While progressing with these efforts, the State party is encouraged to keep in mind the importance of involving Roma in the design, implementation and monitoring of programmes concerning them.

C. Concerns and recommendations

(6) The Committee welcomes the 2011 population census, which gave respondents the opportunity to answer open-ended optional questions including on ethnic origin. However, it continues to regret the lack of sufficient disaggregated data to date to efficiently support assessments of racial discrimination and measures to address it. The Committee also notes inconsistency between some data provided in the periodic report and some in the common core document.

In light of its general recommendation No. 4 (1973) on demographic composition of the population and paragraphs 10 and 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party include disaggregated demographic data on the ethnic composition of the population in its next periodic report. The Committee reminds the State party that managing and monitoring racial discrimination requires measurement and that the analysis of disaggregated data is important in order to assess and track targets and goals.

(7) While welcoming the enactment of the Anti-Discrimination Act of 2009, the Committee is concerned that legal provisions against discrimination are scattered across the principal acts of public law (the Constitution), private law (the Civil Code, the Labour Code) and administrative law (the Code of Administrative Offences, the Anti-Discrimination Act) and the procedural codes thereto (the Code of Civil Procedure, the Code of Administrative Procedure, etc.). The Committee is concerned that, since the grounds for discrimination and the remedies differ depending on the area of discrimination, victims may find the access to justice cumbersome, slow and ineffective (arts. 2, 4 and 6).

The Committee thus recommends that the State party consider the possibility of unifying and consolidating the prohibited grounds of discrimination and standardizing remedies for racial discrimination in order to facilitate access to justice for victims of racial discrimination.

(8) While acknowledging the important progress that has been made through adoption of the Anti-Discrimination Act, the Committee is conscious that it defines permissible and impermissible grounds and forms of differential treatment without providing sufficiently for new means of protection to victims. The Committee also notes that establishing discrimination reportedly remains difficult and the only additional means of protection stipulated by the Anti-Discrimination Act is recourse to the Ombudsman, who has limited direct powers, however (arts. 2, 4 and 6).

In line with its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take steps to unify its legislation and simplify judicial procedures in cases of racial discrimination, and strengthen the

mandate of the Ombudsman. The Committee also recommends that the State party provide the requisite legal information to persons belonging to the most vulnerable social groups and promote institutions such as free legal aid and advice centres, legal information and centres for conciliation and mediation.

(9) While welcoming the information provided by the State party that the Ombudsman began functioning as the Equality Body according to the Anti-Discrimination Act, the Committee is concerned by the absence of an independent national human rights institution set up in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

The Committee recommends that the State party establish an independent national human rights institution in line with the Paris Principles and provide it with adequate human and financial resources in order to carry out its mandate, including promoting the Convention and monitoring legislative compliance with the provisions thereof.

(10) The Committee notes the State party's approach in its Criminal Code (sect. 405) addressing class hatred under the same section as genocide, racial, ethnic, national and religious hatred as outlined during the dialogue with the State party. It further notes the lack of response to its previous recommendation (CERD/C/CZE/CO/7, para. 9) regarding this issue (arts. 2 and 4).

The Committee requests further information in writing – as offered by the State party – regarding such procedures and how, in the light of its previous concluding observations (CERD/C/CZE/CO/7, para. 9), it ensures that there is no confusion between questions of racial discrimination, genocide and other matters in the application of the State party's Criminal Code or in combating racial discrimination.

(11) The Committee remains concerned at the possibly limited effectiveness of the Government's response to some of the decisions and acts of local and regional authorities taken while exercising devolved powers, especially where such acts had involved evictions or other limitations of the rights of vulnerable groups, the organization of local minority committees or the allocation of resources and housing including to the Roma community (arts. 2 and 5).

The Committee recommends that the State party take effective measures to ensure that the principle of self-governance and devolution of powers does not impede implementation of its international human rights obligations of promoting rights of groups vulnerable to racial discrimination, particularly their economic, social and cultural rights.

(12) The Committee expresses its concern regarding the persistent segregation of Romani children in education as confirmed by the decision of the European Court of Human Rights of 2007 and the 2010 report of the Czech School Inspection Authority. The Committee is concerned with reports that the practice of linking social disadvantage and ethnicity with disability for the purposes of school-class allocation has continued, not removed by recent regulations. Furthermore, some amendments to regulatory decrees which take effect in September 2011 may reinforce discrimination against Romani children in education and that practical changes which will benefit Romani children under the Government National Action Plan for Inclusive Education are only envisaged from 2014 onwards (arts. 3 and 5).

In line with its previous concluding observations and general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to eliminate any discrimination or racial harassment of Romani students and prevent and avoid the segregation of Romani students, while keeping open the possibility for bilingual or mother-tongue tuition.

The Committee recommends that the State party take concrete steps to ensure effective de-segregation of Romani children and students and to ensure that they are not deprived of their rights to education of any type or at any level. The Committee also recommends that the State party undertake full consultation with Roma stakeholders with regard to education and in order to promote awareness of Roma rights and enhance their capacities to address the discrimination they experience including in education and by school authorities.

(13) The Committee is concerned by the results of a study conducted by the European Roma Rights Centre and a group of non-governmental organizations which show that, in 22 childcare institutions in the five regions of the State party included in the study, 40.6 per cent of children were Roma. While acknowledging the overarching need for adequate protection of children, the Committee is conscious that the overrepresentation of Romani children in State care institutions may reveal a disregard of Roma rights (arts. 2 and 5).

The Committee recommends that the State party include in its overall strategy the issue of overrepresentation of Romani children in State care institutions by addressing the root causes of this phenomenon, including poverty of Roma parents and limited resources of child protection authorities. The Committee also recommends that the State party organize further training and education for associated professionals and personnel on Roma rights.

(14) Despite the State party's efforts, the Committee is concerned by the existence of socially excluded localities populated by Roma and persistent discrimination against Roma regarding access to adequate housing and employment (arts. 3 and 5).

The Committee recommends that the State party develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing and take special measures to promote the employment of Roma in the public administration and institutions, as well as in private companies. The Committee thus recommends that the State party strengthen its strategy and plans in these areas and allocate sufficient resources to the Agency for Social Inclusion of Roma Communities.

(15) While welcoming the decision of the Supreme Court to dissolve the Workers Party for its advocacy of neo-Nazi ideology and expressions of opposition to immigrants and minorities, the Committee regrets that article 4 (b) of the Convention is not adequately covered by the State party's legislation, as it refers to persons only but does not prohibit organizations and other propaganda activities inciting racial discrimination (art. 4).

The Committee recommends that the State party include prohibition of racist propaganda, organizations and activities in its legislation and recognize participation in such organizations or activities as an offence punishable by law. In view of its general recommendations Nos. 7 (1985) on legislation to eradicate racial discrimination (art. 4) and 15 (1993) on organized violence based on ethnic origin (art. 4), the Committee is of the view that article 4 (b) places a burden upon States parties to be vigilant as to proceeding against organizations promoting racial discrimination which have to be declared illegal and prohibited.

(16) The Committee is concerned by manifestations of hatred, hate crime, racist and xenophobic discourse in politics and the media, including reports of statements by senior political figures. The Committee has received reports of a growing number of incidents of incitement to hatred and acts of violence such as setting Roma dwellings alight with Molotov cocktails, some of which incidents allegedly have involved sympathizers of the former Workers Party. The Committee is also very concerned by information alleging that former members of extremist political parties serve as governmental advisors, including in the Ministry of Education, Youth and Sports (arts. 2, 4 and 6).

The Committee urges the State party to ensure that hate crime and violence, racist and xenophobic discourse, wherever they take place, are thoroughly investigated and that perpetrators, whoever they are, are effectively prosecuted. The Committee further urges the State party to ensure that former members of extremist political parties are not hired as governmental advisors or officials. The Committee encourages the State party to include in the next periodic report disaggregated statistical data on these incidents, complaints about racial discrimination acts and any judicial decision. It also recommends that the State party carry out awareness-raising campaigns on respect for diversity and elimination of racial discrimination.

(17) The Committee notes with regrets the lack of information on the efficiency and independence of the Czech Police Force Inspectorate with regard to allegations of ill-treatment by police officers against minority groups (arts. 2, 4 and 6).

The Committee reiterates its previous recommendations (CERD/C/CZE/CO/7, para. 12) that the State party should ensure that racial motivated acts of violence against Roma are investigated, and that perpetrators, including public officials, do not remain unpunished. It again encourages recruitment of members of Roma communities to the police and urges the State party to allocate adequate resources for the implementation of the 2008–2012 Strategy for the Work of the Czech Police Force in relation to Minorities.

(18) The Committee expresses its concern about the discrimination experienced by minority and non-citizen women on the basis of both their ethnicity and gender (art. 5).

The Committee recommends that the State party ensure that this double discrimination is adequately addressed and specifically named both in measures to fight discrimination and in national action plans to promote the equality of women and girls.

Further, in line with its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party include in its next periodic report disaggregated data by gender within racial or ethnic groups to allow both the State party and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

(19) The Committee remains concerned about the issue of sterilization of Romani women without their free and informed consent. While welcoming the regret expressed by the authorities in Resolution 1424 of November 2009 and the decision of the Supreme Court of June 2011 that would waive the statute of limitations, the three-year statute of limitation still remains for these cases and obstructs full reparation and compensation of victims (arts. 2, 5 and 6).

The Committee recommends that the State party use the recent decision of the Supreme Court to facilitate full reparation and compensation for Romani women victim to unlawful sterilization, give consideration to ex gratia compensation procedures, generate awareness among patients, doctors and the public on the guidelines of the International Federation of Gynecology and Obstetrics and put in place safeguards to avoid similar incidents in the future. The Committee recommends that the State party consider legislating for a permanent waiver to limitation on all cases relating to compensation due to illegal sterilization.

(20) The Committee is concerned by reports of exploitation of migrant workers and ill-treatment of foreigners – mainly asylum-seekers – in detention centres. The Committee also notes the absence of information on their access to citizenship (art. 5).

The Committee calls on the State party to include in the next periodic report information on the situation of non-citizens, particularly their work conditions, and on the situation of foreigners in detention centres. The Committee welcomes the legislation under preparation regarding access to citizenship in line with the Convention and requests the State party to provide it with updated information on its adoption and implementation.

(21) The Committee takes note of the information regarding cases of trafficking of human beings mainly affecting Roma and foreign women (arts. 5 and 6).

The Committee recommends that the State party adopt a strategy to combat trafficking for both labour and sexual exploitation, particularly that which targets Romani and foreign women, and include information on measures taken in this regard and results achieved in the next periodic report.

(22) The Committee notes that the education of the population is important to accompany the success of plans, structures and legislation towards integration for full and effective equality with rights to culture and identity recognized (art. 7).

The Committee recommends that the State party take further measures to develop awareness-raising activities promoting tolerance and diversity and pay particular attention to the role of the media in this regard.

(23) The Committee notes with regret the State party's decision not to develop a national action plan against racism in line with the Durban Declaration and Programme of Action. Furthermore, while having appreciated the State party's engagement with the Durban processes, the Committee regrets its disengagement from the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action (art. 2).

The Committee is of the view that a national action plan against racism in line with the Durban Declaration and Programme of Action remains a useful instrument for combating racial discrimination. It encourages the State party to develop such a tool. The Committee further encourages the State party to reconsider participation in and re-engagement with the Durban tenth-anniversary commemoration. The Committee once again 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, and to include also specific information on progress made as a result of these and other measures, to combat racial discrimination.

(24) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(25) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(26) The Committee recommends that the State party continue consulting and expanding its dialogue with the Ombudsman and civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(27) 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 observations of the

Committee with respect to these reports be similarly publicized in the official and other commonly used languages.

(28) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 11, 12 and 19 above. The Committee also reminds the State party the importance of maintaining dialogue on the implementation of the Convention through the follow-up procedure and urges its ongoing engagement.

(29) The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 16, 17, 21 and 23 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(30) The Committee recommends that the State party submit its tenth and eleventh periodic reports in a single document, due on 1 January 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1), and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, chap. I, para. 19).

46. **Georgia**

(1) The Committee considered the fourth and fifth periodic reports of Georgia (CERD/C/GEO/4-5), submitted in one document, at its 2102nd and 2103rd meetings (CERD/C/SR.2102 and 2103), held on 16 and 17 August 2011. At its 2121st and 2126th meetings (CERD/C/SR.2121 and 2126), held on 30 August and 1 September 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the combined fourth and fifth periodic reports of the State party in conformity with the Committee's reporting guidelines. The Committee expresses its appreciation for the detailed replies provided by the delegation during the consideration of the report and welcomes the open, substantive and constructive dialogue with the large delegation.

B. Positive aspects

(3) The Committee welcomes the State party's ongoing efforts to revise its legislation in order to ensure greater protection of human rights and give effect to the Convention, including: amendments in 2010 to the Constitution of Georgia; the amendment in 2007 to the National Law on Refugees; the adoption on 11 July 2007 of the Law of Georgia on the Repatriation of Forcefully Displaced Persons from the Soviet Socialist Republic by the Former USSR in the 1940s; amendments to the Organic Law on Citizenship of Georgia in December 2009; amendments to the Law on Higher Education in 2009; and the amendment on 5 July 2011 to the Civil Code of Georgia.

(4) The Committee notes with interest that since the consideration of the combined second and third periodic reports of the State party (CERD/C/461/Add.1), the latter has acceded to or ratified international and regional instruments such as:

(a) United Nations Convention against Transnational Organized Crime (on 5 September 2006), as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention;

(b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (on 3 August 2010);

(c) European Framework Convention for the Protection of National Minorities (in force since 1 April 2006).

(5) The Committee also welcomes the State party's efforts to amend its policies, programmes and administrative measures to ensure further the protection of human rights and the implementation of the Convention, in particular:

(a) The development of the Action Plan for 2009-2014 on National Minorities' Integration through Multilingual Education.

(b) The adoption, in May 2009, of the National Concept for Tolerance and Civil Integration and its Action Plan and the establishment on 3 July 2009 of an Inter-Institutional Commission to implement it;

(c) The establishment, in 2007, of the State Strategy for Internally Displaced Persons, and the related Action Plan on 28 May 2009.

(6) The Committee notes with interest the extended competencies given to the Public Defender and encourages the State party to consult with and involve him or her in all activities concerning human rights.

(7) The Committee also notes with interest the importance given to culture and the support given to the cultural activities of ethnic minorities and encourages the State party to continue along this path.

C. Factors and difficulties impeding the implementation of the Convention

(8) Recalling paragraph 4 of its previous concluding observations (CERD/C/GEO/CO/3), the Committee reiterates that it acknowledges that Georgia has been confronted with ethnic and political conflicts in Abkhazia, Georgia and South Ossetia, Georgia since independence. The Committee notes that Abkhazia and South Ossetia continue to be outside the effective control of the State party, which made it therefore unable to implement the Convention in these territories.

(9) In addition, the armed conflict of 2008 in South Ossetia and military activities in Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons (IDPs) and refugees. The Security Council adopted resolution 1866 (2009) asking the parties in conflict to facilitate the free movement of refugees and IDPs. The Committee notes the State party's position that the obligation for implementing the Convention in South Ossetia and Abkhazia belongs to a neighbouring country which has effective control over those territories. The Committee notes that it has in the past taken the view that States that have effective control over a territory have the responsibility under international law and the spirit of the Convention for implementing the Convention.

D. Concerns and recommendations

(10) Despite a number of draft laws that had been put forward for public discussion, the Committee reiterates its concern that the State party has not yet adopted the draft legislation to protect minorities (art. 2).

The Committee encourages the State party to speed up the adoption of specific legislation to protect minorities.

(11) The Committee is concerned that the Criminal Code does not prohibit racist discourse in general, the dissemination of ideas based on racial superiority and expressions of racial hatred, and incitement to racial discrimination. It is also concerned that legislation

does not provide for a clear definition of direct and indirect discrimination and that racist organizations are not banned by law. In addition, the Committee notes that racial, religious, national or ethnic grounds are regarded as aggravating circumstances only in connection with serious crimes (art. 4 (a) and (b)).

The Committee recommends that the State party:

(a) Amend the Criminal Code to include specific provisions prohibiting racist discourse, the dissemination of ideas based on racial superiority and expressions of racial hatred, and incitement to racial discrimination, and banning racist organizations;

(b) Introduce a clear definition of direct and indirect discrimination into the country's civil and administrative laws;

(c) Recognize racial, religious, national or ethnic grounds as a general aggravating circumstance, in connection with all crimes and offences.

(12) The Committee is concerned at the limited number of cases of racial discrimination considered by the judiciary or other competent authorities (arts. 2, 4 and 6).

Recalling its general recommendations No. 26 (2000) on article 6 of the Convention and No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Conduct awareness-raising campaigns among the public at large about the existence of criminal law provisions penalizing racially motivated acts and encourage victims of such acts to lodge complaints;

(b) Enhance its efforts to improve access to justice and the functioning of the judicial system, including by providing training to police, prosecutors, judges and professionals in the judicial system on the application of laws on racist offences;

(c) Provide updated information concerning the application by courts of anti-discrimination provisions and statistical data on the number and nature of reported crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by the age, gender and national or ethnic origin of victims.

(13) The Committee is concerned at allegations of arbitrary arrests and ill-treatment of members of minority groups and foreigners, whose vulnerability stems in part from their lack of knowledge of the Georgian language, perpetrated by law-enforcement officials (arts. 5 and 6).

Recalling its general recommendation 13 (1993) on training law enforcement officials in the protection of human rights, the Committee recommends that the State party look into such allegations and take the necessary measures so that law enforcement officials fully respect the human rights of members of minority groups and foreigners. It also encourages the recruitment into the police force of persons belonging to ethnic minorities, especially in regions largely inhabited by minorities.

(14) The Committee is concerned at reports of stereotyping, prejudice and misconceptions with regard to members of ethnic and religious minorities expressed through the media, by politicians and in school textbooks. It is also concerned at reports that after the 2008 armed conflict members of some minorities have been depicted as "enemies" (art. 5).

The Committee recommends that, in addition to legal and policy levels, the State party make every effort to build mutual confidence and reconciliation between the majority and minority populations and promote a peaceful and tolerant coexistence in

inter-ethnic relations through political discourse, awareness-raising campaigns and by removing derogatory or insulting references to minorities in school textbooks. The Committee also recommends that the State party ratify the Council of Europe Convention on Cybercrime, which it has signed, as well as the Additional Protocol thereto.

(15) While noting the efforts deployed in this field, including some special measures, the Committee is concerned by the low level of knowledge of Georgian as a second language among minorities and the obstacle that this represents to their integration into society, education, employment, and representation in State institutions and public administration. It is also concerned at the insufficient number of trained teachers of the Georgian language (art. 5).

The Committee recommends that the level of knowledge of Georgian by minorities be further enhanced through the teaching of Georgian as a second language in educational institutions at all levels and that efforts be made to ensure greater political representation and participation of members of minority groups, especially the Azeri and Armenian communities, in public life. The Committee invites the State party to engage in dialogue with these groups and civil society to facilitate their integration and to enhance the quality of training of teachers of the Georgian language at all levels as well as bilingual education in minority areas, increasing the number of Language Houses and improving the curriculum of the Zurab Zhvania school of civic administration for minorities. The Committee also recommends that the State party ratify the European Charter for Regional or Minority Languages.

(16) While welcoming the projects for development undertaken by the Government in areas inhabited by the Azeri and Armenian communities to connect these areas with the centre of the country, the Committee is concerned that members of these communities living in remote rural areas suffer from a lack of adequate infrastructure, including roads, transport, water, electricity and natural gas supplies. The Committee is concerned that the land reform undertaken in the 1990s deprived many villagers of their agricultural land, mostly in favour of city dwellers belonging to the majority population, and that names of localities could be changed without consulting local inhabitants. The Committee is also concerned by the apparent lack of effective preservation of the cultural heritage and monuments of minorities (art. 5).

The Committee recommends that the State party:

(a) Continue and enhance its efforts to build and improve the road, transport, water, electricity and other infrastructure in remote areas inhabited by minorities;

(b) Review and consider reversing the negative repercussions of past land reforms and consider any changes of geographic names of localities in consultation and agreement with the local population;

(c) Take the necessary measures for the preservation of the cultural heritage and monuments of minorities.

(17) The Committee is concerned that the Roma population of Georgia remains marginalized, continues to live in precarious economic and social conditions, has low representation in public life and that many of them do not possess identity documents. The Committee is also concerned at the low rate of enrolment of Roma children in schools and at reports that children, most of whom are of Roma origin, are living in the streets of Tbilisi (art. 5).

In the light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Ensure the issuance of birth certificates and other documents to all members of the Roma minority;

(b) Enhance its efforts to improve the employment, social services, health and housing conditions of the Roma, alleviate their state of marginalization and poverty and ensure their greater representation in public life;

(c) Make every effort to increase the rate of school enrolment of Roma children and take effective measures to protect Roma children living and working in the streets, including by ensuring shelters and providing them with recovery and social reintegration services.

(18) While noting the efforts made by the State party to facilitate the repatriation of persons deported by the Union of Soviet Socialist Republics in 1944, among them the Meskhetian Turks, including through improved procedures, the Committee is concerned at reports that only a small number of them have been granted repatriation status. The Committee notes that Meskhetian Turks have never been compensated for their loss of property. The Committee is also concerned at reports that the population in regions to which the Meskhetian Turks would be returning, mainly the Armenian minority, may be hostile to them (art. 5).

The Committee recommends that the State party adopt a comprehensive strategy to integrate persons deported, among them the Meskhetian community, in accordance with the principle of self-identification, including by facilitating the documentation requirements, in appropriate languages, and translation procedures and promptly reviewing applications for repatriation. Recalling its general recommendation No. 8 (1990) on identification with a particular racial or ethnic group, the Committee recommends that the State party consider providing compensation to the repatriated persons for the loss of property when they were deported. The Committee also recommends that the State party take measures to create an administrative environment that facilitates and speeds up the repatriation process, and to sensitize the population of the regions to which Meskhetian Turks will be returning in order to promote inter-ethnic harmony.

(19) The Committee is concerned at the lack of disaggregated data with regard to minorities, including the numerically smaller groups such as the Kists, Kurds, Jews, Greeks and Assyrians, as well as IDPs and refugees. The Committee is also concerned that a large number of children, in particular from minority groups in remote parts of the country, have not been registered at birth and do not have birth certificates (art. 5).

The Committee recommends that after the 2012 census, the State party provide it with disaggregated information on the composition of society, including on persons belonging to numerically smaller minorities and the inhabitants of the Autonomous Republic of Ajara as well as IDPs and refugees, as well as information regarding their access to health and in particular on infant and maternal mortality among minorities, their level of income, their representation in important State jobs and disparities with regard to education. The Committee recommends that the State party take all the necessary measures to register the births of children, in particular those from minorities, born in remote parts of the country and provide them with birth certificates.

(20) The Committee welcomes the measures taken to alleviate the situation of IDPs, but is concerned that they continue to face obstacles to integration and that some experience dire living conditions due to poverty, that some of them are expected to remain in protracted displacement, while others have not been able to register and obtain IDP status. In addition, the Committee is concerned about the vulnerability of internally displaced women and girls, including those from ethnic minorities, in particular regarding abduction

for the purpose of marriage, as well as with regard to education, health and employment (art. 5).

Recalling its general recommendation No. 22 (1996) on refugees and displaced persons, the Committee recommends that the State party continue its efforts to improve the situation of IDPs, including those displaced after the 2008 conflict, in particular with regard to integration, decent durable living conditions, and food. It urges the State party to regulate the situation of those IDPs who will not be able to return soon and to place special emphasis on the employment, job creation and income-generating schemes for all IDPs, with special programmes and strategies regarding internally displaced women, including those belonging to ethnic minorities.

(21) While noting that legal safeguards exist for non-citizens and stateless persons, the Committee is concerned that a number of stateless persons have documentation problems and thereby no access to public services. It is also concerned that certain rights in the economic and social field are explicitly confined to citizens of Georgia. The Committee notes that the State party has not acceded to the 1954 Convention relating to the Status of Stateless Persons or to the 1961 Convention on the Reduction of Statelessness (art. 5).

In the light of its general recommendations No. 11 (1993) and No. 30 (2004) on non-citizens, the Committee recommends that the State party take all legislative and other measures to avoid discrimination against non-citizens and stateless persons. It also recommends that steps be taken to solve the documentation issues of stateless persons so that they can be registered, including through mobile registration centres, and have access to public services. While welcoming the State party's recent commitment to accede to the 1954 Convention relating to the Status of Stateless Persons, the Committee recommends that the State party also accede to the 1961 Convention on the Reduction of Statelessness.

(22) The Committee notes that the Draft Law on Refugee and Humanitarian Status would improve the access of asylum-seekers to health care, education and employment, but that it has not been adopted to date (art. 5).

The Committee recommends that the State party bring its Law on Refugees into conformity with international refugee law and standards through the adoption of the Draft Law on Refugee and Humanitarian Status (also known as the Draft Law on Refugees and Temporary Asylum-Seekers).

(23) 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 the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

(25) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(26) The Committee recommends that the State party consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(27) The Committee 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 cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(28) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(29) Noting that the State Party submitted its core document in 2000, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

(30) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 17, 21 and 22 above.

(31) The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 10, 11, 14 and 18 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(32) The Committee recommends that the State party submit its sixth, seventh and eighth periodic reports, in a single document, by 2 July 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).

47. Ireland

(1) The Committee considered the third and fourth periodic reports of Ireland, submitted in one document (CERD/C/IRL/3-4), at its 2063rd and 2064th meetings (CERD/C/SR.2063 and 2064), held on 22 and 23 February 2011. At its 2089th meeting (CERD/C/SR 2089), held on 9 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the report submitted by the State party that was supplemented by frank and sincere oral responses provided by its delegation. The Committee commends the State party for its punctuality and consistency in the submission of periodic reports since it became a party to the Convention, and the quality of the reports. The Committee expresses its appreciation for the large delegation that presented the State party's report notwithstanding the current political situation and economic crisis that have

confronted the State party. The Committee values the opportunity thus afforded to continue its constructive dialogue with the State party.

(3) The Committee notes with appreciation the input to its proceedings by the National Human Rights Institution in Ireland, namely, the Irish Human Rights Commission (IHRC) and various non-governmental organizations (NGOs).

B. Positive aspects

(4) The Committee notes with appreciation the establishment of the new Office of the Minister for Integration which has special responsibility for integration policy at the Department of Community, Rural and Gaéltacht Affairs, the Department of Education and Skills, and the Department of Justice, Equality and Law Reform.

(5) The Committee also welcomes the establishment of a Ministerial Council on Migrant Integration with the mandate to advise the Minister for Integration, Equality and Human Rights on issues faced by migrants in the State party. The Committee also commends the State party for the establishment of the Irish Naturalisation and Immigration Service in 2005, which provides a 'one stop shop' in matters of asylum, immigration, citizenship and visas.

(6) The Committee also commends the State party for ratifying the United Nations Convention on Transnational Organized Crime, 2000 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000.

(7) The Committee welcomes the development of the National Strategy on Domestic, Sexual and Gender-Based Violence for a five-year period from 2010 to 2014.

(8) The Committee also welcomes the establishment of the independent police complaints authority, the *Garda Síochána* (Police) Ombudsman Commission under the Garda Síochána (Police) Act of 2005, which replaced the *Garda Síochána* (Police) Complaints Board.

(9) The Committee also notes with appreciation the establishment of the Office of the Press Ombudsman and the Press Council of Ireland which provide a new system of independent regulation for the print media.

(10) The Committee notes the actions taken by the State party on the on follow-up to the Durban Review Conference including the National Action Plan against Racism and related initiatives.

C. Concerns and recommendations

(11) The Committee notes with regret that the economic recession that has confronted the State party threatens to reverse the achievements that have been made in the State party's efforts to combat racial discrimination at all levels. The Committee expresses grave concern about the disproportionate budgets cuts to various human rights institutions mandated to promote and monitor human rights such as the Irish Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism (art. 2).

The Committee, recalling its general recommendation No. 33 (2009) on the Follow-Up to the Durban Review Conference, reiterates that responses to financial and economic crises should not lead to a situation which would potentially give rise to racism, racial discrimination, xenophobia and related intolerance against foreigners, immigrants and persons belonging to minorities. The Committee, therefore, recommends that the State party ensure that, notwithstanding the current economic recession, enhanced efforts are made to protect individuals from racial discrimination. In light of this, the Committee recommends that budget cuts for human rights bodies should not result in

the stifling of their activities to effectively monitor the protection of human rights and particularly racial discrimination. The State party should ensure that the functions of the bodies that have been closed are fully transferred and subsumed by the existing or new institutions.

(12) The Committee recalls its previous concluding observations (CERD/C/IRL/CO/2) and general recommendation No. 8 (1990) on the principle of self-identification, and expresses concern at the State party's persistent refusal to recognize Travellers as an ethnic group notwithstanding that they satisfy the internationally recognized criteria (arts. 1 and 5).

The Committee reiterates the recommendation made in its previous concluding observations and general recommendation No. 8 that the State party should pay particular attention to self identification as a critical factor in the identification and conceptualization of a people as an ethnic minority group. In this regard, the Committee recommends that the State party continue to engage with the Traveller community and work concretely towards recognizing Travellers as an ethnic group.

(13) While noting the efforts made so far by the State party to understand the issues affecting Travellers through the Survey of Traveller Education Provision in Irish Schools (STEP) and the All-Ireland Traveller Health Study, the Committee regrets that efforts made to improve the welfare of Travellers have not substantially improved their situation. The Committee notes with regret the poor outcomes in the fields of health, education, housing, employment for Travellers as compared to the general population (art. 5 (e)).

The Committee recommends that the State party strengthen its efforts to implement the policy advice offered by the National Traveller Monitoring and Advisory Committee. The State party should ensure that concrete measures are undertaken to improve the livelihoods of the Traveller community by focusing on improving students' enrolment and retention in schools, employment and access to health care, housing and transient sites.

(14) The Committee recalls its previous concluding observations (CERD/C/IRL/CO/2) and general recommendation No. 32 (2009) on the scope and meaning of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, and regrets that the State party has not adopted a programme on affirmative action to improve the representation of the Traveller community in political institutions or taken adequate measures to encourage the Traveller community to participate in the conduct of public affairs (art. 5(c)).

The Committee reiterates its previous concluding observations (CERD/C/IRL/CO/2) and draws the attention of the State party to general recommendation No. 32 , and recommends that the State party adopt affirmative action programmes that seek to improve the representation of Travellers in political institutions, particularly at the level of *Dáil Eireann* (Lower House of Parliament) and/or *Seanad Eireann* (Upper House of Parliament). The State party should further adopt measures aimed at encouraging the Traveller community to participate in the conduct of public affairs.

(15) The Committee regrets that due to the current political situation in the State party, efforts to enact and review legislation such as the Immigration and Residence Protection Bill 2010, Criminal Justice (Female Genital Mutilation) Bill 2011 and the Prohibition of Incitement to Hatred Act 1989 have stalled (arts. 2, 4, 5 and 6).

The Committee recommends that the State party's pursue efforts aimed at strengthening the protection of all people from racial discrimination by improving the existing draft pieces of legislation and passing them into law. The Committee further recommends that the State party improve the Immigration and Residence Protection

Bill 2010 to provide for (a) the right of migrants to judicial review against administrative actions and prescribe reasonable periods within which to do so; and (b) the right of migrant women in abusive relationships to legal protection by providing them with separate residence permits.

(16) The Committee regrets that since the consideration of its previous report, the State party has made no efforts to incorporate the Convention into the domestic legal order, particularly in light of the fact that the State party has incorporated other international human rights instruments into domestic law (art. 2).

The Committee reiterates its previous concluding observations (CERD/C/IRL/CO/2) that the State party should incorporate the Convention into its legal system to ensure its application before Irish Courts in order to afford all individuals its full protection.

(17) The Committee recalls its previous concluding observations (CERD/C/IRL/CO/2) and notes that the State party made a reservation/interpretative declaration on article 4 of the Convention. The Committee notes that the State party has not provided compelling reasons for maintaining the reservation/interpretative declaration. (art. 2)

Recalling its previous concluding observations (CERD/C/IRL/CO/2) and general recommendation No. 15 (1993), the Committee reiterates its recommendation to the State party that it should reconsider its position, and encourages it to withdraw the reservation/interpretative declaration made to article 4 of the Convention.

(18) The Committee is concerned at the lack of legislation proscribing racial profiling by the *Garda Siochána* (Police) and other law enforcement personnel. The Committee also notes with regret reports that many non-Irish people are subjected to police stops, and are required to produce identity cards, which practice has the potential to perpetuate racist incidents and the profiling of individuals on the basis of their race and colour (arts. 2, 3 and 6).

The Committee recommends that the State party adopt legislation that prohibits any form of racial profiling, a practice which has the danger of promoting racial prejudice and stereotypes against certain racial groups in the State party. Furthermore, the State party should strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by the *Garda Síochána* (Police) and other law enforcement personnel in accordance with international human rights law. The Committee further recommends that the State party establish appropriate mechanisms to encourage the reporting of racist incidents and crimes.

(19) While noting the efforts taken by the State party to combat racial discrimination and related intolerance, including commissioned research undertaken by the Centre for Criminal Justice at the University of Limerick, the Committee remains concerned that the legislative framework in the State party does not cover all the elements of article 4 of the Convention, and that racist motivation is not consistently taken into account by judges in sentencing for crime (arts. 2 and 4).

Recalling general recommendation No. 31 (2005), the Committee recommends that (a) in line with article 4 (b) of the Convention, legislation be passed to declare illegal and prohibit racist organizations; (b) that racist motivation be consistently taken into account as an aggravating factor in sentencing practice for criminal offences; and (c) that programmes of professional training and development sensitize the judiciary to the racial dimensions of crime.

(20) The Committee is concerned at the negative impact that the policy of 'direct provision' has had on the welfare of asylum-seekers who, due to the inordinate delay in the processing of their applications, and the final outcomes of their appeals and reviews, as well as poor living conditions, can suffer health and psychological problems that in certain

cases lead to serious mental illness. The Committee is further concerned at the failure by the State party to provide for an independent appeals tribunal considering that the remit of the Office of the Ombudsman does not extend to asylum and immigration matters (arts. 2, 5 and 6).

The Committee encourages the State party to take all necessary steps with a view to expediting the processing of asylum applications so that asylum-seekers do not spend unreasonable periods of time in asylum centres which might have negative consequences on their health and general welfare. The State party should take all necessary measures to improve the living conditions of asylum-seekers by providing them with adequate food, medical care and other social amenities including also a review of the direct provision system.

(21) The Committee is concerned at reports of racial discrimination towards people of African origin. The Committee regrets the lack of disaggregated statistical data on these reports in the State party's report (arts. 2 and 5).

The Committee recommends that the State party ensure that any person involved in such acts is investigated and prosecuted, and if found guilty on such incidents, punished with appropriate penalties. The Committee further recommends that the State party compile disaggregated statistical data on these incidents of racial discrimination against persons of African origin.

(22) While noting the various efforts that have been made by the State party through the Health Service Executive (HSE) to protect the rights of separated and unaccompanied children seeking asylum, the Committee regrets that legislation in this area does not provide adequate protection as required by the standards set by the Office of the United Nations High Commissioner for Refugees (UNHCR). In this context, the Committee notes with concern the lapsing of the Immigration, Residence and Protection Bill 2010, which presented the opportunity to amend the Child Care Act 1991 in order to outline the legal obligations of the HSE towards these children (arts. 2 and 5).

The Committee recommends that the State party enact legislation that adequately protects the rights and welfare of separated and unaccompanied children seeking asylum in line with the standards set by international law. The Committee, therefore, invites the State party to adopt immediate measures to ensure that a guardian *ad litem* **or advisor be appointed for all separated and unaccompanied children irrespective of whether they have made a protection application or not.**

(23) The Committee notes with concern the reported prevalence of instances of 'knife stabbing', with people from sub-Saharan Africa representing a disproportionate number of the victims. The Committee regrets the lack of disaggregated statistical data on these reports (arts. 2 and 4).

The Committee recommends that the State party investigate the reports of 'knife stabbings' against people mainly from sub-Saharan Africa and ensure that the perpetrators are prosecuted and when convicted, punished with appropriate penalties. The Committee further encourages the State party to compile disaggregated statistical data on these incidents, which must be included in its next periodic report.

(24) While welcoming the efforts of the State party with regard to the development of a training package for the *Garda Síochána* (Police) under the programme 'Diversity Works' and the efforts by the Judicial Studies Institute to provide training for the judiciary, the Committee is concerned that human rights training has not been mainstreamed in the civil service (arts. 6 and 7).

The Committee recommends that the State party strengthen its efforts to sensitize relevant civil servants on human rights issues particularly against racism and

intolerance by ensuring that human rights training is mainstreamed in the civil service. In this regard, the Committee invites the State party to develop a coordinated work plan with the Irish Human Rights Commission (IHRC) that allows the IHRC to raise awareness and provide human rights training to all civil servants including the *Garda Síochána* (Police) and the judiciary.

(25) The Committee regrets that notwithstanding the existence of the Refugee Act of 1996, there is no legal framework for family reunification, which is currently handled on a non-statutory basis. The Committee also regrets the current narrow meaning ascribed to the word 'family' for purposes of family reunification. The Committee further regrets the lapsing of the Immigration Residence and Protection Bill which provided that family reunification would be provided for in a statutory instrument. (arts. 2, para. 2, 5 (d) (iv) and 6)

The Committee recommends that the State party adopt legislation that would elaborate the principles, rights and obligations governing family reunification. In this regard, the State party is encouraged to assign the responsibility of dealing with applications for family reunification to an independent authority that would follow due process, and develop a system that would provide an appellate procedure to challenge its decisions.

(26) The Committee recalls its previous concluding observations (CERD/C/IRL/CO/2) and notes with concern that the education system in the State party is still largely denominational and is mainly dominated by the Catholic Church. The Committee further notes that non-denominational or multi-denominational schools represent only a small percentage of the total, and regrets that, according to reports, there are not enough alternative schools, and students of the Catholic faith are favoured for enrolment into Catholic schools over students of other faiths in case of shortage of places. The Committee further expresses its regret that the provisions of the Equal Status Act give the power to schools to refuse to admit students to denominational schools on grounds of religion, if it is deemed necessary to protect the ethos of the school. (arts. 2 and 5 (d) (vii) and (e)(v))

Recognizing the "intersectionality" between racial and religious discrimination, the Committee reiterates its previous concluding observations (CERD/C/IRL/CO/2) and recommends that the State party accelerate its efforts to establish alternative non-denominational or multi-denominational schools and to amend the existing legislation that inhibits students from enrolling into a school because of their faith or belief. The Committee further recommends that the State party encourage diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief.

(27) The Committee notes the inclusion of migrant and minority women including Traveller women in the State party's National Women Strategy currently under review (arts. 2 and 5).

Bearing in mind the Committee's general recommendations No. 25 (2000) and No. 32 (2009), the Committee recommends that the State party take all necessary measures to ensure that, following the review, migrant and minority women continue to be the focus of the target actions and objectives of the National Women's Strategy.

(28) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(29) In light of its general recommendation No. 33, the Committee recommends that the State party continue to 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, when implementing the Convention in its domestic legal order. 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.

(30) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

(31) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(32) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(33) Noting that the State party submitted its core document in 1998, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

(34) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 12, 15 and 16 above.

(35) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations, 18, 19, 25 and 27 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(36) The Committee recommends that the State party submit its combined firth to seventh periodic reports in a single document, due on 28 January 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

48. **Kenya**

(1) The Committee considered the initial to fourth periodic reports of Kenya (CERD/C/KEN/1-4), submitted in one document, at its 2100th and 2101st meetings (CERD/C/SR.2100 and CERD/C/SR.2101), held on 15 and 16 August 2011. At its 2119th meeting (CERD/C/SR.2119), held on 29 August 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission, although delayed, of the State party's initial to fourth periodic reports, which comply with the reporting guidelines and provide a critical assessment of the situation in the State party.

(3) The Committee also welcomes the presence of a large high-level delegation, led by the Minister of Justice, National Cohesion and Constitutional Affairs, notwithstanding the demands occasioned by the current parliamentary work on the adoption of laws implementing the new Constitution.

(4) The Committee also expresses its appreciation for the frank and constructive dialogue with the State party as well as the detailed information provided on the themes identified by the Country Rapporteur and in response to the questions posed by the members of the Committee.

B. Positive aspects

(5) The Committee welcomes the adoption of the new Constitution in 2010, which contains a broad catalogue of human rights that lays the foundation for the promotion of an inclusive multi-ethnic Kenyan society, addressing inequalities and eliminating discrimination. The Committee also notes with interest the constitutional provisions aimed at instituting good governance in the State party. Furthermore, the Committee notes with interest the legislative process undertaken by the State party to implement the 2010 Constitution and to bring its legislation into conformity with international standards.

(6) The Committee welcomes the institutional and other measures taken by the State party to promote national reconciliation and unity subsequent to the violence following the 2007 elections, to establish a historical record of what happened, to prosecute perpetrators, and to provide victims with redress. The Committee notes in particular the establishment of the Commission of Inquiry into Post-Election Violence and of the Truth, Justice and Reconciliation Commission.

(7) The Committee welcomes the efforts undertaken by the State party to overhaul and reform its judicial system.

(8) The Committee notes with appreciation the active engagement of, and contribution from, the Kenya National Commission on Human Rights as well as the contributions from non-governmental organizations to the dialogue.

C. Concerns and recommendations

(9) While noting that racial discrimination is outlawed in the State party and that the Convention forms part of its law, the Committee regrets the absence of information on sanctions for acts of racial discrimination. Moreover, the Committee notes that while the legislation explicitly prohibits discrimination in areas such as employment, it does not do so for other areas of public life where discrimination occurs frequently, such as in housing (arts. 2 and 5).

The Committee wishes to receive information on sanctions imposed for acts of racial discrimination. Moreover, the Committee recommends that, in addition to outlawing

racial discrimination in general, the State party also address racial discrimination in policies on employment and housing, as well as other relevant areas.

(10) The Committee welcomes the opportunity to improve access to justice provided by the new Constitution, whereby competence for hearing racism cases is no longer limited to the High Court and victims of racism can now access lower courts. The Committee is nonetheless concerned that the population's limited awareness of rights, and particularly the right not to be discriminated against, as well as the limited accessibility of judicial remedies, will continue to prevent victims from seeking justice and reparation through courts (art. 6).

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Raise awareness among the population, through mass education, about the legal prohibition of racial discrimination and about their right to equality and non-discrimination, as provided by the Constitution and other pieces of legislation;

(b) Ensure the provision of free legal aid throughout the country, including by rolling out the National Legal Aid Scheme, which should involve the use of paralegals in the rural and arid and semi-arid areas of the country;

(c) Review judicial procedures as necessary to speed up the processing of cases of racial discrimination in the courts, including through the reinforcement of the role of public prosecutors and members of the prosecution service in the initiation of judicial proceedings for racist acts.

The Committee requests the State party to include in its next periodic report data on complaints or legal proceedings relating to racial discrimination.

(11) The Committee notes that the State party is in the process of reviewing the institutional arrangements for its national human rights institution, pursuant to the constitutional provision which provides for the establishment of the Kenya National Human Rights and Equality Commission.

The Committee encourages the State party to build on the positive experience of the Kenya National Commission on Human Rights in deciding the most suitable institutional arrangement for its national human rights institution. The Committee further encourages the State party to ensure that the fight against racial discrimination continues to be at the core of the mandate of its national human rights institution, and that it remains fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and is provided with adequate resources.

(12) While noting that the National Cohesion and Integration Act of 2008 and the Penal Code prohibit hate speech and incitement to hatred, the Committee is concerned that the State party's legislation is narrow and does not cover all punishable offences as prescribed by article 4 of the Convention and that relevant provisions condemn hate speech on only a limited number of grounds (art. 4).

The Committee recommends that the State party undertake the necessary legislative amendments in order to widen the scope of the existing legislation so as to give full effect to article 4 of the Convention. In this regard, it refers the State party to its general recommendations Nos. 1 (1972) on States parties obligations, 7 (1985) on legislation to eradicate racial discrimination and 15 (1993) on organized violence based on ethnic origin.

(13) The Committee notes with concern that politicians in the State party continue to use incitement to ethnic hatred in statements and speeches. The Committee also notes that recent court proceedings against politicians on incitement to hatred have been halted in controversial and unexplained circumstances (art. 4).

The Committee urges the State party to adopt a firm stand against the use of ethnic lines for political purposes, to strictly enforce the legislation on hate speech and incitement to hatred, and to investigate all allegations brought to its attention. The Committee also invites the State party to ensure that all those charged are properly prosecuted regardless of their station in life and that the sanctions imposed take into account the gravity of these acts, when committed for political propaganda, insofar as they can lead to violence. Furthermore, the Committee calls on the State party to strictly enforce the relevant laws on the liability of the media when reporting or publishing racist statements.

(14) The Committee notes the work achieved so far by the Truth, Justice and Reconciliation Commission, including the holding of hearings and the collection of statements from witnesses. The Committee further notes that an extension of the duration of its mandate is under consideration by the Government (arts. 6 and 7).

The Committee encourages the State party to continue to fully support the work of the Truth, Justice and Reconciliation Commission until the completion of its work and calls on the State party to uphold its findings and implement its recommendations.

(15) The Committee regrets that, to date, no victim of the violence that occurred following the 2007 elections has received reparation and that the perpetrators have yet to be prosecuted. The Committee also notes that proceedings before the International Criminal Court are in progress (art. 6).

The Committee calls on the State party to ensure that all victims of the violence that occurred following the 2007 elections are effectively compensated and that the perpetrators of the violence are properly prosecuted. The Committee notes the continued cooperation between the State party and the International Criminal Court. In this regard, the Committee refers the State party to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

(16) The Committee notes with great concern reports that some persons displaced by the violence following the 2007 elections have neither been able to return to their homes nor been given compensation (art. 5).

Recalling its general recommendation No. 22 (1996) on article 5 and refugees and displaced persons, the Committee recommends that the State party give its fullest attention to the plight of internally displaced persons and ensure that they return to their land or are otherwise properly resettled and provided with adequate reparation.

(17) The Committee notes with concern that the State party has not acted on the decisions of the African Commission on Human and Peoples' Rights as regards the forced evictions of the *Endorois* and the *Ogiek* from their lands, and that to date the people affected are still without any redress (art. 5).

The Committee urges the State party to respond to the decisions made by the African Commission on Human and Peoples' Rights and to ensure that all marginalized communities and peoples involved are provided with redress as ordered.

(18) The Committee notes with concern that little progress has been made in resolving land issues over the years and that inter-ethnic violence over land disputes continues to occur. The Committee notes that the State party has adopted the National Land Policy and

that the establishment of the National Land Commission is provided for in the new Constitution (art. 5 (d) and (e)).

The Committee recommends that the State party take measures without delay to operationalize the machinery and mechanisms for addressing land problems fairly, taking into account the historical contexts of land ownership and acquisition. The Committee wishes to be informed of the outcomes of actions taken in this regard.

(19) The Committee notes with interest the introduction of the concept of community lands in the 2010 Constitution, which recognizes the rights of marginalized and vulnerable ethnic minorities (art. 5).

The Committee calls on the State party to take the necessary legislative measures and to adopt policies to implement the constitutional provisions on community lands and minority rights.

(20) The Committee notes with concern that the State party has historically been governed by representatives of the large ethnic groups. Moreover, while understanding the need to promote ethnic representation within political parties, the Committee expresses concern that the legislative provisions in this regard may diminish the opportunity for smaller ethnic groups to be represented in elected bodies (art. 5 (c)).

The Committee encourages the State party to put into place without delay the mechanisms necessary for implementing the constitutional provisions on ethnic representation in government bodies and offices, and invites the State party to extend the requirement for equitable ethnic representation to bodies and commissions established by the new Constitution. The Committee further calls on the State to ensure that the new pieces of legislation concerning political parties and elections to be adopted by the State party will enable the representation of ethnic minorities in elected organs, such as the parliament.

(21) The Committee expresses concern at the discriminatory and arbitrary extra requirements for Nubians, Coastal Arabs, Somalis and Kenyans of Asian descent in the recognition of nationality and in accessing identity documentation such as Kenyan identity cards, birth certificates and passports. The Committee is also concerned that by introducing the possibility of revocation of nationality, the new Constitution imposes a differential treatment of citizens according to the way the Kenyan nationality has been acquired (art. 5 (d)).

The Committee urges the State party to ensure compliance with article 5 (d) (iii) of the Convention by making the necessary amendments to its legislation and administrative procedures in order to implement the new constitutional provisions on citizenship, and by ensuring that all citizens are treated equally and without any discrimination and receive identity documents. The Committee also calls upon the State party to implement the decision of the African Committee of Experts on the Rights and Welfare of the Child in respect of the right of Nubian children to acquire national identity papers.

(22) The Committee notes that projects to upgrade the slums of Nairobi are being implemented by the State party, and that bodies such as the District Peace Committees and the Uwiano Platform for Peace have been set up. At the same time, the Committee is concerned at the prevailing ethnic tension in these overcrowded slums and at the risk of escalation into violent ethnic clashes due to agitation by politicians (art. 5 (b)).

The Committee urges the State party to take measures to check the overcrowding of the slums of Nairobi and minimize the possibility of the situation in the slums being exploited in the political platforms of politicians, and to invest in efforts

commensurate with the scale of the problems in order to address ethnic tensions in the slums.

(23) The Committee notes that the new Constitution of the State party calls for an equitable allocation of public resources among national and county governments and creates the Equalisation Fund. Nevertheless, the Committee notes with concern that measures previously taken by the State party have not addressed the ethnic and regional disparities in the enjoyment of economic and social rights, which is one of the causes of resentment among ethnic groups. The Committee also regrets the lack of information on affirmative measures in place in favour of disadvantaged ethnic groups (art. 5 (e)).

The Committee recommends that the State party address the question of ethnic and regional disparities and encourages the State party to allocate the necessary resources, in addition to those coming from the Equalisation Fund, to address the lack of provision of, and access to, public services in marginalized areas. Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee also urges the State party to adopt special measures to reduce in a tangible manner the inequalities among ethnic groups in areas such as employment and education. Moreover, the Committee calls on the State party to anchor the fight against inequality and the development of marginalized areas in its poverty reduction policy and strategies.

(24) While noting the inclusion of human rights education in the school curricula and the various initiatives undertaken by the Ministry of Justice, National Cohesion and Constitutional Affairs, such as the cohesion cafés and the televised programmes, the Committee is concerned that these measures are not sufficient to promote inter-ethnic understanding and tolerance. The Committee is further concerned that the targets of these initiatives, as well as the types of the media being used, do not reach all segments of the population (art. 7).

The Committee calls on the State party to step up educational efforts to promote national cohesion and reconciliation, including by ensuring that they effectively address ethnic prejudices and stereotypes as well as the history of inter-ethnic violence in the State party, utilizing media that reach all segments of the population.

(25) The Committee notes with concern the grave conditions at the Dadaab refugee camp, created by overcrowding and the lack of basic necessities faced by refugees (art. 5 (b) and (e)).

The Committee commends the State party for the efforts it is making to alleviate this humanitarian catastrophe at the Dadaab camp and encourages it to invite the international community to discharge its responsibility towards refugees under the principle of burden sharing.

(26) The Committee notes that the report submitted by the State party does not contain statistical data on the enjoyment of economic and social rights. The Committee further notes that the 2009 census gathered data on ethnicity as well as on some economic and social rights indicators, but they were not provided in the report.

The Committee invites the State party to include in its next periodic report statistical data on the enjoyment of economic and social rights as collected in the course of the 2009 national census.

(27) The Committee 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 cites General Assembly resolution 61/148,

63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(28) The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(29) 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 the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

(31) The Committee recommends that the State party undertake and publicize an adequate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(32) The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(33) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(34) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 13, 17 and 19 above.

(35) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 18, 21, 22 and 24, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(36) The Committee encourages the State Party to submit a common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

(37) The Committee recommends that the State party submit its fifth to seventh periodic reports in a single document by 13 October 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also

urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).

49. **Lithuania**

(1) The Committee considered the combined fourth and fifth periodic report of Lithuania (CERD/C/LTU/4-5), submitted in one document, at its 2075th (CERD/C/SR.2075) and 2076th meetings (CERD/C/SR.2076, held on 2 and 3 March 2011. At its 2087th meeting, held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee commends the excellent quality of the combined fourth and fifth periodic reports submitted by the State party. It welcomes the presence of a large and high-level delegation and expresses its appreciation for updated information that the delegation provided verbally to complement the report, taking into account the list of themes identified by the Rapporteur. It also appreciates the frank and constructive dialogue with the State party.

B. Positive aspects

(3) The Committee welcomes the enactment of the Law on Equal Treatment in 2005 which prohibits direct or indirect discrimination on the grounds of, inter alia, age, sexual orientation, disability, race and ethnic origin.

(4) The Committee welcomes the amendment of legislation aimed at addressing discrimination such as:

(a) The amendment of the Criminal Code (July 2009) expressly considering racial motivation or aim behind a crime as an aggravating circumstance;

(b) The amendment of the Law on Equal Treatment (June 2008) providing victims of racial discrimination with more procedural guarantees by shifting the burden of proof in discrimination cases over to the respondent, except in criminal cases.

(c) The law amending and supplementing the Criminal Code (July 2007) extending the scope of the crime of desecration to other sites of public respect on racial, national or religious grounds.

(5) The Committee welcomes the ruling of the Constitutional Court declaring unconstitutional the Law on Citizenship, which discriminated against persons who are not of Lithuanian ethnic origin.

(6) The Committee commends the fact that all permanent residents, including stateless persons have the right to vote or to stand for elections to municipal councils.

(7) The Committee welcomes the initiative taken in adding a new field to the statistical cards of the law enforcement institutions in order to better monitor racist crimes.

(8) The Committee commends the disaggregated statistical data on the composition of the population provided by nationality, citizenship, religion and minority groups. It welcomes the 2011 national census which is currently being organized.

(9) The Committee welcomes the Draft Law on National Minorities which gives a right to minorities living compactly in residential areas to address local authorities and organizations in their language as well provisions in the draft law that allow for signs and information to be provided in the languages of national minorities in addition to the official language.

C. Concerns and recommendations

(10) The Committee, while commending the work of advisory bodies dealing with human rights, in particular the Equal Opportunities Ombudsman, expresses its concerns about budget cuts imposed on these bodies. It reiterates its regrets that the State party has not yet decided to establish a national human rights institution (CERD/C/LTU/CO/3, para. 11). However, the Committee takes note of the statement made by the delegation that this matter is still under consideration (art. 2).

The Committee recommends that the State party provide these advisory bodies with appropriate human and financial resources in order to enable them to perform optimally. Furthermore, the Committee recommends that the State party establish an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

(11) The Committee notes that a law on national minorities is under consideration.

The Committee encourages the State party to adopt this law as soon as possible, giving effect to the relevant provisions of the Convention, particularly those of article 4.

(12) Despite legislative and institutional efforts made to combat racial prejudice and xenophobic stereotyping in sports, media and internet, the Committee notes that racist and xenophobic incidents continue to occur (arts. 2 and 4).

The Committee recommends that the State party ensure that racist and xenophobic incidents and discriminatory behaviour are effectively prosecuted; that perpetrators are punished and that effective remedies are made available to victims. Referring to its previous concluding observations (CERD/C/LTU/CO/3, para. 12), the Committee recommends that the State party investigate cases of hate crimes in accordance with national legislation and the Convention. Furthermore, the Committee recommends that the State party carry out awareness-raising campaigns to sensitize the public and prevent the occurrence of similar acts.

(13) The Committee regrets that the State party has not provided adequate information on racial segregation and referred to it only as crime against humanity ignoring other aspects of its legislation (art. 3).

The Committee recommends that the State party monitor any form of racial segregation in light with its general recommendation No. 19 (1995) on racial segregation and apartheid (art. 3 of the Convention) bearing in mind that conditions of racial segregation are not created only by governmental policies but may arise as an unintended by-product of the actions of private persons such as ghetto-like housing and other forms of social isolation. It invites the State party to include this information in its next periodic report.

(14) The Committee welcomes statistics on racial discrimination cases provided by the delegation and notes the decreased number of complaints relating to racial discrimination. According to some information, victims of racial discrimination do not complain because they fear reprisals, including loss of their employment (arts. 4 and 6).

The Committee recommends that the State party make full use of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, including by developing appropriate education programmes for both law enforcement officials and minority groups. The Committee recommends that the State party take measures in order to ensure the representation of persons belonging to minority groups in the police and the judiciary.

(15) The Committee expresses its concern that Roma continue to be marginalized and live in precarious conditions in terms of adequate housing, access to adequate health facilities, employment and that some of them do not have identity documents and are considered stateless although born in the country (arts. 3 and 5).

The Committee recommends that in light of its general recommendation No. 27 (2000) on discrimination against Roma, the State party take special measures for Roma in light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination by promoting the advancement and protection of Roma. It also recommends that the State party allocate sufficient resources for programmes targeting the Roma community, for example, to solve the problems of their identity cards and statelessness and to involve Roma representatives and civil society organizations in the implementation of these programmes.

The Committee recommends that the State party evaluate existing programmes developed for Roma in order to assess their integration into Lithuanian society.

(16) The Committee notes the State party's efforts to ensure that the education of Roma children is improved. However, it regrets the absence of statistics on the number of Roma children completing secondary education and the placement of Roma children in special-needs schools (art. 5).

Further to its previous concluding observations (CERD/C/LTU/CO/3, para. 19) the Committee recommends the State party to increase its efforts in ensuring that Roma children integrate in the mainstream schools, to resolutely address the problem of Roma children dropping out of school and to promote Roma language in the school system.

The Committee recommends further that the State party establish a mechanism to accurately assess the number of Roma children pursuing education at the secondary level and above.

The Committee requests the State party to provide in its next periodic report additional information on the decision-making procedure relating to the placement of Roma children in special-needs schools and on measures undertaken by the State party to provide incentives to Roma parents to send their children to school.

(17) The Committee notes with concern that due to the financial crisis, the State party's programmes aimed at addressing racial discrimination, mainly discrimination against Roma, have suffered from disproportionate budget cuts (art. 5).

The Committee invites the State party to strengthen its policies and programmes for the integration of minority groups, in particular the integration of Roma into Lithuanian society, in light of its general recommendation No. 27 (2000) on discrimination against Roma. It encourages the State party to participate in collective European initiatives for Roma and to allocate sufficient resources to existing programmes on Roma.

(18) The Committee regrets the absence of comprehensive information on the situation of women belonging to minority groups who generally encounter multiple forms of discrimination (art.5).

The Committee reiterates its previous recommendations (CERD/C/LTU/CO/3, para. 16) to the State party to provide updated information on the overall situation of women from minority groups in view of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

(19) The Committee expresses its concern regarding the high number of stateless persons in the country (art. 5).

The Committee requests information on measures and actions taken by the State party to reduce statelessness bearing in mind its general recommendation No. 30 (2004) on discrimination against non-citizens. The Committee draws the attention of the State party to its obligations under the 1954 Convention relating to the Status of Stateless Persons which it acceded to on 7 February 2000.

(20) The Committee welcomes programmes implemented by the State party to combat trafficking in human beings but is concerned about budget cuts which hinder their effective implementation. It expresses its concern that victims of trafficking, particularly non-citizens, are hesitant to complain due to lack of confidence in law enforcement institutions (arts. 5 and 6).

The Committee recommends that the State party continue with its efforts to combat human trafficking in general and particularly for the purpose of sexual exploitation. It urges the State party to allocate sufficient resources in this area and to update the Committee on the achievements in the next periodic report.

(21) The Committee notes with regret that human rights awareness is still low in Lithuania as reflected in the periodic report while referring to a resolution of the European Youth Campaign "All Different – All Equal" (art. 7).

The Committee recommends that the State party allocate adequate resources in order to increase activities on human rights awareness and education with particular emphasis on non-discrimination, culture of communication and respect for diversity. It encourages the State party to particularly target the training of teachers and law enforcement officials.

(22) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and the UNESCO Convention against Discrimination in Education (1960).

(23) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(24) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

(25) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(26) The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(27) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(28) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(29) Noting that the State party submitted its core document in 1998, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

(30) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 12, 15, 18 and 19 above.

(31) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 13, 16, 20, 23 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(32) The Committee recommends that the State party submit its sixth to eighth periodic reports in a single document, due on 9 January 2014 taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

50. **Maldives**

(1) The Committee considered the fifth to twelfth periodic reports of Maldives (CERD/C/MDV/5-12), submitted in one document, at its 2096th and 2097th meetings (CERD/C/SR.2096 and CERD/C/SR.2097), held on 11 and 12 August 2011. At its 2117th meeting (CERD/C/SR.2117), held on 26 August 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the periodic report and the resumption of dialogue with Maldives after a lapse of almost 20 years. It expresses its appreciation for the frank and constructive dialogue held with the high-level delegation of the State party headed by the Attorney General.

(3) While the Committee notes with satisfaction that Maldives followed its previous recommendation and received technical assistance from the Office of the United Nations

High Commissioner for Human Rights in finalizing its common core document (HRI/CORE/MDV/2010), the Committee regrets that the periodic report was not prepared in conformity with the revised reporting guidelines (CERD/C/2007/1) and contains insufficient information on the implementation of the Convention. The Committee invites the State party to submit on time its next periodic reports in line with the Committee's revised reporting guidelines and recommendations.

B. Positive aspects

(4) The Committee welcomes the positive developments which have taken place in Maldives, including:

(a) The adoption of the 2008 Constitution, which explicitly prohibits racial discrimination in its article 17 (a);

(b) The enactment of the 2008 Employment Act, which prohibits discrimination among persons carrying out equal work;

(c) The entry into force of the 2009 Expatriate Employment Regulation, which protects the rights of migrant workers;

(d) The collaboration with five special procedures mandate holders who visited the country between 2006 and 2011.

(5) The Committee also welcomes the ratification of a number of international human rights instruments since 1999, including:

(a) The International Covenant on Economic, Social and Cultural Rights, in 2006;

(b) The International Covenant on Civil and Political Rights, in 2006;

(c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2004;

(d) The Convention on the Rights of Persons with Disabilities, in 2010;

(e) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2007.

(6) The Committee notes the intention of the State party to withdraw certain reservations to the international treaties in the field of human rights and encourages it to do so in accordance with the international standards of protection of human rights and fundamental freedoms.

C. Concerns and recommendations

(7) The Committee regrets that the State party has not provided disaggregated data on the composition of the population, necessary to assess the progress made in eliminating all forms of racial discrimination.

In the light of its general recommendation No. 4 (1973) on the demographic composition of the population and paragraphs 10 and 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party include disaggregated demographic data on the ethnic composition of the population in its next periodic report.

(8) While welcoming the information provided by the State party that an anti-discrimination act is being prepared for 2012, the Committee is concerned about the absence of comprehensive legislation to prevent and prohibit racial discrimination (arts. 1 and 4).

In general recommendation No. 1 (1972) on States parties' obligations, the Committee invites States parties to consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 1 and article 4 (a) and (b) of the Convention. In this regard, the Committee recommends that the State party enact the planned anti-discrimination act as soon as possible in accordance with articles 1 and 4 of the Convention. The Committee also invites the State party to make full use of the Convention and the Committee's other general recommendations when preparing this act.

(9) The Committee notes with concern the provision of the Human Rights Commission Act that only Muslims can be members of the Human Rights Commission of the Maldives (arts. 2, 4 and 5).

The Committee recommends that the State party take steps to ensure that the Human Rights Commission represents all groups in the country and becomes fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Committee also encourages the State party to provide the Commission with adequate human and financial resources in order to fully carry out its mandate.

(10) The Committee is particularly concerned about discriminatory provisions in the Constitution that all Maldivians should be Muslims, thus excluding non-Muslims from obtaining citizenship or from accessing public positions, and affecting mainly people of a different national or ethnic origin (arts. 2, 4 and 5).

The Committee draws the attention of the State party to general recommendation No. 30 (2004) on discrimination against non-citizens, in which the Committee requests State parties to ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization. Also, in accordance with article 5 (d) (vii) of the Convention, the State party has the obligation to ensure that all persons enjoy their right to freedom of religion without any discrimination on racial or ethnic grounds. The Committee requests the State party to consider the possibility of modifying the discriminatory constitutional provisions in line with the Convention.

(11) While welcoming the State party's membership in the International Labour Organization, which it joined officially in 2009, the Committee expresses concern about reports of hostility against non-citizens and mistreatment of migrant workers by their employers. It also notes with regret the lack of information on refugees and asylum-seekers in the report of the State party (arts. 2, 5 and 6).

The Committee requests the State party to provide in the next periodic report information on measures taken to prevent and redress cases of hostility and mistreatment against migrant workers as well as on the situation of refugees and asylum-seekers. In view of its general recommendation No. 30 (2005) on discrimination against non-citizens, the State party should continue to take measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory effects.

The Committee recommends that the State party consider ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

(12) The Committee notes with concern that Maldives is a possible destination country for migrant workers trafficked into labour market and for women trafficked for the purpose of commercial sexual exploitation (arts. 2, 5 and 6).

The Committee recommends that the State party strengthen its ongoing efforts to prevent and combat human trafficking, and encourages it to enact as soon as possible the anti-trafficking bill under preparation and include information on any progress made in this area in the next periodic report.

The Committee also recommends that the State party consider ratifying the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

(13) The Committee is concerned by the current limitations placed on the right of migrant workers and other foreigners to manifest their religion or belief only in private (arts. 2, 5 and 7).

The Committee recommends that the State party develop means for promoting mutual understanding, tolerance, and inter-religious dialogue in the Maldivian society which will help to confront religious extremism and enhance cultural diversity.

(14) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination.

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

(16) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(17) The Committee recommends that the State party continue its dialogue with the Human Rights Commission of the Maldives and engage with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(18) The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(19) The Committee 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 cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(20) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(21) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 8 and 12 above.

(22) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 10, 11 and 13, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(23) The Committee recommends that the State party submit its thirteenth to fifteenth periodic reports in a single document by 24 May 2015, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see the harmonized guidelines for reporting, contained in document HRI/GEN.2/Rev.6, para. 19).

51. **Malta**

(1) The Committee considered the fifteenth to twentieth periodic reports of Malta, submitted in a single document (CERD/C/MLT/15-20), at its 2114th and 2115th meetings (CERD/C/SR. 2114 and 2115), held on 24 and 25 August 2011. At its 2126th meeting (CERD/C/SR. 2126), held on 1 September 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the State party's fifteenth to twentieth periodic reports, drafted in accordance with the Committee's guidelines for the preparation of reports, despite the long delay. The Committee appreciates the resumption of dialogue with the State party.

(3) The Committee welcomes the frank and open dialogue with the delegation of the State party, as well as its efforts to provide comprehensive responses to the issues raised during the dialogue.

B. Positive aspects

(4) The Committee welcomes the efforts made by the State party to address the ongoing flow of irregular immigrants into its territory, due to upheavals in the region, despite its limited financial and human resources.

(5) The Committee notes with appreciation the various legislative, institutional and policy developments undertaken in the State party to combat racial discrimination, including:

(a) Amendments to the Criminal Code by means of Act No. III of 2002 and Act No. XI of 2009, which respectively introduced the offence of incitement to racial hatred and racial violence into the Criminal Code, as well as the offences of condoning or trivializing genocide, crimes against humanity, war crimes and crimes against peace directed against a group defined by reference to race, colour, religion, descent or national or ethnic origin, and liability of corporate bodies for such offences;

(b) Article 141 of the Criminal Code, which increases by one degree the punishment of a public officer for an offence relating to racism;

(c) Act No. XI of 2009, which introduces into the legislative framework the concept of aggravation of an offence whenever it is motivated by xenophobia, and which also makes it possible for any offence to be considered as racially or religiously aggravated or motivated by xenophobia;

(d) Reversal of the burden of proof in civil proceedings involving racial discrimination, by means of the Equal Treatment of Persons Order (LN 85 of 2007);

(e) Introduction of the Immigration Appeals Board in the Immigration Act by means of Act XXIII of 2002, which enables migrants to appeal decisions taken by the Principal Immigration Officer;

(f) Withdrawal in 2001 of the geographical reservation to the 1951 Geneva Convention relating to the Status of Refugees, and the opening of the Office of the Refugee Commissioner in 2002;

(g) Role of the Parliamentary Ombudsman and the National Commission for the Promotion of Equality (NCPE);

(h) Various programmes and initiatives aimed at raising the awareness of the population with regard to racial discrimination, integration and tolerance.

C. Concerns and recommendations

(6) The Committee regrets that the State party has not provided reliable and comprehensive statistical data on the composition of its population including economic and social indicators disaggregated by ethnicity, in particular on immigrants living in its territory, to enable it to better evaluate their enjoyment of civil and political, economic, social and cultural rights in the State party.

In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party collect and publicize reliable and comprehensive statistical data on the ethnic composition of its population, and its economic and social indicators disaggregated by ethnicity, including on immigrants, from national census or surveys which include the ethnic and racial dimension based on self-identification, to enable the Committee to better evaluate their enjoyment of civil and political, economic, social and cultural rights. The Committee requests the State party to provide it with such disaggregated data in its next report.

(7) While noting explanations provided by the State party, in particular, about the integration of the European Convention for the Protection of Human Rights and Fundamental Freedoms and European directive 2000/43 into its domestic legal order, the Committee is concerned that the Convention has not yet fully been incorporated in the domestic legal order of the State party (art. 2).

The Committee recommends that the State party take appropriate measures to incorporate all provisions of the Convention in its domestic legal order.

(8) While noting the various legislative (in particular the 2002 and 2009 amendments to the Criminal Code) and institutional developments undertaken to combat racial discrimination, the Committee is concerned about the absence of information about the practical impact on the ground of such measures and their effectiveness (art. 2).

The Committee recommends that the State party take concrete measures to effectively implement its legislation and other institutional and policy measures taken to combat racial discrimination, allocate sufficient resources thereto and periodically evaluate

their effectiveness for the persons or groups particularly targeted. The Committee also recommends that the State party provide it with comprehensive data on the achievements of such measures, and information on the practical application of its legislation, in its next periodic report.

(9) While noting that the State party has created a National Commission for the Promotion of Equality and the Office of the Parliamentary Ombudsman, the Committee is concerned that the State party has not yet established a national human rights institution in full compliance with the Paris Principles (art. 2).

The Committee recommends that the State party consider establishing a National Human Rights Institution, in full compliance with the Paris Principles, or consider expanding the mandate of the structures and procedures of the National Commission for the Promotion of Equality for it to be in full compliance with the Paris principles.

(10) While noting that the Parliamentary Ombudsman has a mandate to address cases relating to racial discrimination involving the government and entities of the State party, the Committee regrets that, as indicated in the State party's report (CERD/C/MLT/15-20, annex, paras. 3-5), the Ombudsman's powers are somewhat limited and do not extend to the private sphere (art. 2).

The Committee recommends that the State party revise the mandate of the Parliamentary Ombudsman in order to address issues related to racial discrimination in the private sphere.

(11) The Committee is concerned at the lack of sufficient information on complaints received by the National Commission for the Promotion of Equality and the Parliamentary Ombudsman about acts of racial discrimination, prosecutions, convictions and sentences handed down by national courts and tribunals, as well as reparation granted, including with regard to the application of article 4. The Committee reiterates its view that the lack of complaints is not proof of the absence of racial discrimination and may be the result of victims' lack of awareness of their rights, lack of confidence in the police and judicial authorities on the part of the public, or lack of attention or sensitivity on the part of the authorities to cases of racial discrimination (arts. 4 and 6).

In light of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party continue to disseminate legislation on this matter and inform the public, in particular immigrants, on all available remedies and legal assistance, as well as on the reversal of proof in civil proceedings. The Committee also recommends that the State party provide training to its prosecutors, judges, lawyers, police officers and other law enforcement officials on how to detect and provide redress for acts of racial discrimination. The Committee requests the State party to provide in its next periodic report comprehensive information on complaints, proceedings, convictions, sentences and reparation related to acts of racial discrimination.

(12) The Committee is concerned about the discriminatory discourse and hate speech by some politicians in the State party. It is also concerned about the phenomenon of dissemination of racism and racial discourse in the media, including through the Internet (arts. 2 and 4).

The Committee recommends that the State party take appropriate means to counter and strongly condemn racism and hate speech by politicians, as well as manifestations of racism in the media, including through the Internet, in particular by effectively prosecuting those responsible, regardless of their status. The Committee also

recommends that the State party promote tolerance, understanding and friendship among the various ethnic groups living in its territory.

(13) While noting the large inflow of immigrants and efforts made by the State party to dealing therewith, the Committee is concerned about reports that their legal safeguards are not always guaranteed in practice. The Committee is also concerned about the detention and living conditions of immigrants in irregular situations in detention centres, in particular of women and families with children (art. 5).

The Committee recommends that the State party strengthen its efforts to effectively guarantee the legal safeguards for all immigrants detained, in particular to inform them about their rights and available legal assistance, and to provide assistance to those seeking asylum. The Committee also recommends that the State party continue its efforts aimed at improving the detention and living conditions of immigrants and thereby comply with international standards, in particular by modernizing detention centres and placing families with children in alternative open accommodation centres. The Committee further recommends that the State party adopt the project conducted by the Refugee Commissioner in order to improve the refugee system.

Due to the large inflow of immigrants into the territory of Malta, the Committee recommends that the State party continue to seek assistance from the international community, in particular its European Union partners, as well as bilateral cooperation.

(14) The Committee is concerned about the recurrence of riots (2005, 2008 and 2011) by detained immigrants against their detention conditions, for example at Safi Barracks, and about the reported excessive use of force to counter the riots (art. 5).

The Committee recommends that the State party take appropriate measures to improve detention conditions and refrain from resorting to excessive use of force to counter riots by immigrants in detention centres, and also to avoid such riots. In that regard, the Committee recommends that the State party pursue the implementation of the recommendations made in the Pasquale report on events that occurred in the Safi Barracks detention centre in 2005.

(15) While noting the different measures taken by the State party to facilitate the integration of immigrants in Maltese society, such as the establishment of the Welfare Agency, vocational and language training, the Committee is concerned about difficulties faced by immigrant women, in particular refugees and asylum-seekers, in effectively accessing education, social services and the labour market (art. 5).

In light of its general recommendations Nos. 25 (2000) on gender-related dimensions of racial discrimination, 30 (2005) on discrimination against non-citizens and 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party:

(a) Undertake focused measures to favour immigrant women and integrate the racial dimension in all policies related to enhanced opportunities for women, in the State party;

(b) Carefully monitor the impact of its laws and policies on immigrant women, in particular refugees and asylum-seekers, in order to protect them against double discrimination and marginalization. In that regard, the Committee recommends that the Employment and Training Corporation include in its initiatives the situation of immigrant women;

(c) Provide the Committee with information in that regard in its next periodic report.

(16) While noting the measures taken by the State party to combat racial discrimination, the Committee is concerned that immigrants, in particular refugees, asylum-seekers and irregular migrants, continue to face discrimination in the enjoyment of their economic, social and cultural rights, in particular with regard to access to housing and employment (art. 5).

In light of its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee recommends that the State party strengthen its efforts to apply its legislation to combat direct or indirect racial discrimination with regard to the enjoyment of economic, social and cultural rights by immigrants, in particular refugees and asylum-seekers, including access to private rental housing and the labour market. The Committee recalls that under the Convention, differential treatment based on citizenship or immigration status constitutes discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of that aim. The Committee requests the State party to provide it with information on the outcome of the case pending before the National Commission for the Promotion of Equality with regard to racial discrimination in renting private accommodation. The Committee also requests the State party to provide it with comprehensive data on the economic, social and cultural situation of immigrants, in its next periodic report.

(17) While noting the measures taken to promote diversity, tolerance and understanding among different ethnic groups, including through various training in schools and awareness-raising campaigns, the Committee is concerned about the absence of information on achievements and the practical impact of such measures (art. 7).

The Committee recommends that the State party strengthen its efforts to eliminate stereotyping of immigrants, in particular refugees and asylum seekers, and to pursue awareness-raising campaigns on equality, intercultural dialogue and tolerance, in particular by including the theme in school curricula and the media. In that regard, the Committee encourages the State party to foster an effective multicultural learning environment and to take into account the provisions of the Convention in the draft national minimum curriculum for early education and care, and compulsory education.

(18) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties directly relevant to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

(20) The Committee recommends that the State Party undertake, with adequate media publicity, an appropriate programme of activities to commemorate 2011 as the International

Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169.

(21) The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of its next periodic report.

(22) The Committee 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 cites General Assembly resolutions 61/148 and 63/243, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(23) 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 observations of the Committee, with respect to the reports, be similarly publicized in the official and other commonly used languages, as appropriate.

(24) The Committee encourages the State Party to submit a common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee Meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I).

(25) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 12, 13 and 14 above.

(26) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 6, 9 and 17 above, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(27) The Committee recommends that the State party submit its twenty-first and twenty-second periodic reports in a single document by 26 June 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1), and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports, and 60-80 pages for the common core document (see harmonized guidelines for reporting, contained in document HRI/GEN.2/Rev.6, chap. I, para. 19).

52. **Norway**

(1) The Committee considered the nineteenth and twentieth periodic reports of Norway (CERD/C/NOR/19-20), submitted in one document, at its 2061st and 2062nd meetings (CERD/C/SR.2061 and CERD/C/SR.2062), held on 21 and 22 February 2011. At its 2084th meeting (CERD/C/SR.2084), held on 9 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission of the combined nineteenth and twentieth periodic report of the State party, on time and in conformity with the reporting guidelines.

The Committee expresses its appreciation for the detailed responses provided during the consideration of the report and welcomes the open and constructive dialogue with the high-level delegation.

(3) The Committee notes with appreciation the close collaboration with civil society in the elaboration of the report and the input provided to its proceedings by the Norwegian Centre for Human Rights, the Equality and Anti-Discrimination Ombud as well as the Ombudsman for Children.

B. Positive aspects

(4) The Committee notes with interest that the draft report was forwarded to the Sami Parliament for comments.

(5) The Committee welcomes the fact that the State party has adopted initiatives to combat discrimination among which are the following:

(a) The Plan of Action to Promote Equality and Prevent Ethnic Discrimination (2009-2012) which includes several new measures;

(b) The appointment of a commission on 1 June 2007 to propose more comprehensive anti-discrimination legislation;

(c) The appointment on 18 June 2009 by the Storting (Parliament) of a committee to propose a limited revision of the Constitution with the aim of strengthening the position of human rights;

(d) The project of Statistics Norway aimed at producing more accurate statistics with regard to the Sami population;

(e) The adoption of the State party's 2009 plan of action to improve the living conditions of Roma people with Norwegian nationality;

(f) The Action Plan for Integration and Social Inclusion of the Immigrant Population (2007-2009), including Goals for Social Inclusion;

(g) The adoption of the Act relating to Municipal Crisis Centre Services (the Crisis Centre Act) entering into force on 1 January 2010;

(h) The National Police Directorate plan to promote diversity in the police force introduced in September 2008 up to 2013.

C. Concerns and recommendations

(6) While appreciating the information provided by the delegation during its oral presentation, the Committee reiterates its concern regarding the lack of data on the ethnic composition of the population in the State party's report.

The Committee recommends that the State party provide it with updated information concerning the ethnic composition of the population, in accordance with paragraphs 10 and 12 of the reporting guidelines (CERD/C/2007/1) and its general recommendation 8 (1990) concerning self-identification with a particular racial or ethnic groups.

(7) While taking note of the State party's arguments with regard to its choice not to incorporate the Convention in national law through the Human Rights Act of 1999, on a par with other important human rights treaties, the Committee reiterates the importance of according primacy to the Convention whenever there is a conflict with domestic law (arts. 1 and 2).

The Committee invites the State party to consider incorporating the Convention into the domestic legal order at a higher level, through the Human Rights Act of 1999.

(8) The Committee is concerned that the envisaged amendment of the Anti-Discrimination Act does not reflect all grounds of discrimination contained in article 1 of the Convention, including discrimination based on race and skin colour. The Committee is also concerned that language is not included as grounds for discrimination (art. 1).

The Committee recommends that the Anti-Discrimination Act be amended to ensure that all grounds of discrimination contained in article 1 of the Convention are subject to prohibition.

(9) The Committee is concerned about the situation of migrants, persons from a migrant background, asylum-seekers and refugees with regard to discrimination against them in terms of access to public services, housing, the labour market and health, and in particular adequate physical and mental health services for traumatized refugees and asylum-seekers. The Committee is also concerned at the dropout rate of students from an immigrant background, including from upper secondary education (arts. 4, 5 and 6).

In light of its general recommendation No. 30 (2004) on non-citizens, the Committee urges the State party to consult regularly with the groups and communities concerned and take measures to address the discrimination they face, including with regard to access to public services, housing, education, the labour market and health, including the provision of specialized mental and physical health services for traumatized refugees and asylum-seekers. The Committee invites the State party to consider re-opening the Psycho-Social Centre for Traumatized Refugees. The Committee also recommends that the State party devote more financial resources to training teachers for a multicultural educational environment. The State party should also take the necessary steps to ensure that persons from an immigrant background have access to positions in higher branches of government, academia and businesses.

(10) The Committee is concerned at the lack of qualified and professional interpreters, especially in the medical and legal fields, for Sami, and in particular, languages spoken by members of minority groups and non-citizens. The Committee is also concerned about ethical issues arising with regard to interpretation, including the reported use of minors as interpreters for their parents and the reported use of family members as interpreters for those whom they have abused (arts. 2, 5 and 6).

The Committee urges the State party to improve the availability, accessibility and quality of professional interpretation services, especially in the medical and judicial fields, including by earmarking budget funds to accommodate multiple languages. The Committee recommends that legislation be enacted on the right to professional interpretation regarding public services and prohibiting the use of minors and relatives as interpreters. The Committee also recommends that public service professionals receive information and guidance on how to hire and work with qualified interpreters.

(11) While noting the importance of adequate command of the State language as a vehicle for social integration and participation, the Committee is concerned that the requirement in the Norwegian Nationality Act that the applicant between the age of 18 and 55 must have completed 300 hours of Norwegian language lessons may be a barrier for access to citizenship and naturalization for certain groups. The Committee is concerned at the dropout rate from the mandatory language instruction; that it is not of uniform quality and free of charge for all; that the introduction programme lapses after three years; that it depends on the person's basis for residence and can be lost if the person moves to another municipality (arts. 2 and 5).

Recalling its general recommendation No. 30, the Committee urges the State party to take appropriate measures to ensure that the free of charge language instruction programme is available to everyone who wants it and that its pedagogic methods and

content are adapted to gender and to the educational and national background. In order to reduce the dropout rate and ensure that the programme is not a barrier for citizenship and naturalization, the Committee recommends that the State party monitor its implementation more closely to determine whether it is of uniform quality, is adapted to certain groups in terms of gender and origin, and that eligibility is not lost when changing residence.

(12) The Committee takes note of the stricter rules under the new Immigration Act which entered into force on 1 January 2010, in particular with regard to asylum-seekers. It is especially concerned about the situation of unaccompanied asylum-seeking children aged 15 to 18 who live in reception centres, who are given a temporary residence permit until the age of 18 and are subsequently liable to removal by force or to voluntary return. The Committee is also concerned about the access of this category of children to health services, education and qualified guardians (arts 2, 5 and 6).

In light of its general recommendation No. 30, the Committee recommends that the State party take all the necessary measures to address the situation of asylum-seekers in a humane manner and in accordance with the law. It recommends that the State party take all measures necessary to ensure special protection for unaccompanied asylum-seeking children, including health-care services, education and care by competent guardians, in conformity with Norway's international legal obligations. It also recommends that these children are settled in local communities, outside reception centres, as rapidly as possible and enabled to study beyond primary education.

(13) The Committee is concerned with conditions prevailing in reception centres and special return centres for asylum-seekers and rejected asylum-seekers, as well as with conditions in the Trandum detention centre as regards asylum-seekers or rejected asylum-seekers if conditions for detaining them have been fulfilled. It is also concerned about conditions in the reception centres for children aged 16-18, including those affecting their physical and mental health. The Committee is also concerned about the proposed lowering of the threshold for imprisonment and the duration of provisional detention of persons whose identity is being verified (arts. 2, 5 and 6).

The Committee, recalling its general recommendations Nos. 30 and 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, recommends that the State party bring the conditions in reception and special return centres, and in reception centres for children, in line with relevant international human rights standards. It recommends that the State party provide the necessary mental and psychological health services by specially trained qualified staff.

(14) The Committee is concerned that the legislation concerning free legal aid does not cover cases of ethnic discrimination. The Committee notes that the Parliament is currently considering whether free legal aid should be granted when legal proceedings are recommended by the Anti-Discrimination Ombud or the Anti-Discrimination Tribunal, as is the case with legal proceedings recommended by the Parliamentary Ombudsman (arts. 2, 5 and 6).

Recalling its general recommendation No. 31, the Committee recommends that recommendations for free legal aid made by the Anti-Discrimination Ombud and Anti-Discrimination Tribunal be placed on an equal legal footing as those made by the Parliamentary Ombudsman.

(15) While welcoming the Action Plan against Female Genital Mutilation (2008-2011), and the Action Plan against Forced Marriage (2008-2011), the Committee is concerned

about the perceived excessive focus on these issues which may be seen as stigmatizing women and girls belonging to certain minority groups (arts. 2, 5 and 6).

The Committee requests to receive an updated evaluation of the effectiveness of the Action Plan against Female Genital Mutilation (2008-2011), and the Action Plan against Forced Marriage (2008-2011) and an assessment of how these also promote the rights of women and girls from certain minority groups without stigmatizing them.

(16) The Committee is concerned at the double or triple discrimination against women from certain ethnic minority or immigrant backgrounds, in particular those who are victims of violence and/or human trafficking. It also expresses its concern at the cessation of earmarked government grants to crisis centres after the entry into force of the Crisis Centre Act, the majority of whose occupants are women from this type of backgrounds. The Committee is also concerned at the lack of adequate knowledge and specific competences of crisis centre staff and the difficulties encountered in finding alternative housing for persons who leave the centres (arts. 2, 5 and 6).

Recalling its general recommendations Nos. 25 (2000), 29 (2002) and 30, the Committee recommends that the State party monitor and assess the effectiveness of care provided and financed by municipalities after the cessation of earmarked government grants to crisis centres. It urges the State party to ensure that crisis centres under the new arrangement have professional staff with adequate knowledge and specific competences to work with persons from ethnic minority or immigrant backgrounds, in particular those who are victims of violence and/or human trafficking. It also recommends that all efforts be made to find adequate housing for those leaving the centres, away from persons by whom they were abused.

(17) The Committee is concerned about the effects on indigenous peoples and other ethnic groups in territories outside Norway, including the impact on their way of life and on the environment, of the activities by transnational corporations domiciled in the territory and/or under the jurisdiction of Norway (arts. 2, 5 and 6).

In light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party take appropriate legislative or administrative measures to ensure that the activities of transnational corporations domiciled in the territory and/or under the jurisdiction of Norway do not have a negative impact on the enjoyment of rights of indigenous peoples and other ethnic groups, in territories outside Norway. In particular, the State party should explore ways to hold transnational corporations domiciled in the territory and/or under the jurisdiction of Norway accountable for any adverse impacts on the rights of indigenous peoples and other ethnic groups, in conformity with the principles of social responsibility and the ethics code of corporations.

(18) The Committee is concerned that measures taken may not be sufficient to preserve and promote the culture of the Sami people and address the special situation of the East Sami, in particular regarding their access to land for reindeer grazing and that of the Sea Sami, in particular regarding their fishing rights. The Committee is also concerned about the persistence of discrimination towards Sami communities and the lack of implementation of the status of Sami language instruction, including teaching materials and staff (arts. 2, 5 and 6).

In light of its general recommendation No. 23 , the Committee recommends that the State party consult with the East Sami and Sea Sami and implement measures with a view to enabling them to fully enjoy their human rights and fundamental freedoms and to maintain and develop their culture, means of livelihood, including management of land and natural resources, in particular regarding reindeer grazing and fishing. The Committee urges the State party to take active measures to enable the Sami

community to preserve its cultural identity and to monitor and address all forms of discrimination against the Sami communities. It recommends that the State party enact an educational policy to address the mother-tongue teaching requirements, including materials and staffing resources, of the Sami community. The Committee would appreciate receiving the results of the examination of East Sami land claims by the Finnmark Commission.

(19) The Committee takes note of the existence of provisions dealing with Sami interests in Finnmark in the Mining Law of 19 June 2009, which entered into force on 1 January 2010. However, the cited Law does not stipulate anything with regard to Sami interests in other places traditionally inhabited by the Sami in Norway that are outside Finnmark.

The Committee requests the State party to include in its next periodic report information about consultations that were and are being conducted by the Government of the State party concerning industrial and other projects in all the territories where indigenous peoples traditionally live.

(20) The Committee expresses its concern with regard to the Roma and Romani/Tater communities and in particular their access to public places, housing, employment and the measures taken to integrate children from Roma communities, especially from travelling families, into the educational system in accordance with their way of living. (arts. 2, 5 and 6)

In light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party take active measures to prevent discrimination against the Roma and Romani/Tater communities, in particular regarding their access to public places, housing and employment, and allocate additional resources to find appropriate solutions for integrating children from Roma and Romani communities, especially those from travelling families, into the educational system, to ensure that they benefit fully from all levels of the system, taking into account the community's lifestyle and including an enhanced teaching provision in their language.

(21) The Committee is concerned about racist views expressed by extremist groups, some representatives of political parties, in the media, including the internet, which constitute hate speech and may lead to acts of hostility against certain minority groups and about the existence of associations involved in such activities. The Committee is also concerned that there are few complaints against racist acts, including those committed by law enforcement agents, and that few cases are dealt with by courts. The Committee is concerned further at the lack of judicial statistical information concerning the number of complaints, investigations, prosecutions and condemnations regarding racist acts (arts. 4 and 6).

The Committee recalls its general recommendation No. 15 (1993) on article 4, according to which all provisions of article 4 of the Convention are of a mandatory character, and recommends that the State party establish a clear and transparent definition of hate speech and hate crimes with a view to observing a balance between the right to freedom of expression and overt expressions of racist views according to article 4 and ban organizations promoting racism and racial discrimination. It recommends the development of a strategy to deal with racism in public discourse more effectively. In light of its general recommendation No. 31, the Committee also requests the State party to provide judicial statistical data on the number of complaints, number of cases dismissed and reasons for dismissal, investigations, prosecutions and condemnations regarding all types of racist acts, as provided for in article 4 of the Convention, including those committed by law enforcement agents.

(22) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not

yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(23) While taking note of the State party's plans for follow-up to the Durban Review Conference, and in light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party continue to 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, when implementing the Convention in its domestic legal order. 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.

(24) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009).

(25) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(26) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 12, 13, and 16 above.

(27) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 10, 18, 19, and 20 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(28) The Committee recommends that the State party submit its twenty-first and twenty-second periodic reports in a single document, due on 5 September 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

53. **Paraguay**

(1) The Committee on the Elimination of Racial Discrimination considered the initial report and the combined second and third periodic reports of Paraguay, submitted as a single document (CERD/C/PRY/1-3), at its 2094th and 2095th meetings (CERD/C/SR.2094 and 2095), held on 10 and 11 August 2011. At its 2117th meeting (CERD/C/SR.2117), held on 26 August 2011, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the reports and the common core document submitted by the State party, the verbal responses to its questions furnished by the Paraguayan delegation and the dialogue that has taken place between the Committee and the delegation. In view of

the delay with which the combined initial report and second and third periodic reports were received, in future the Committee invites the State party to abide by the timetable established in the International Convention on the Elimination of All Forms of Racial Discrimination and the reporting guidelines prepared by the Committee.

(3) The Committee applauds the active participation of representatives of civil society and their dedication to eliminating racial discrimination in the State party.

B. Positive aspects

(4) The Committee takes note of the commitments made by the State party in the course of the universal periodic review conducted by the Human Rights Council and encourages the State party to comply with all of the recommendations that it has accepted.

(5) The Committee is pleased to note that the amount budgeted for land purchases by the National Institute of Indigenous Affairs (INDI) was raised from US$ 4 million to US$ 22 million in 2011.

(6) The Committee welcomes the firm commitment made by the delegation of the State party to comply with rulings handed down by international courts in cases involving indigenous peoples. The Committee commends the State party on its recent recognition of the Kelyenmagategma indigenous community's ownership rights to a portion of its ancestral territory and on the transfer of official title to that land following more than 10 years of litigation.

(7) The Committee is gratified to learn of the creation of the Directorate-General for Indigenous Health under the Ministry of Health.

C. Concerns and recommendations

(8) The Committee is concerned about the lack of sufficient reliable, disaggregated data on the demographic composition of the Paraguayan population, particularly in the case of indigenous peoples and Afro-descendent communities. Noting that the next national census is to be conducted in 2012, the Committee is concerned by the lack of information on the corresponding preparatory work, including such matters as the training to be provided to census-takers and communities, the methodological tools to be used to ensure that the principle of self-identification is respected, and the information provided and the consultations held regarding the design of census forms (art. 2, para. 1 (a) and (d)).

The Committee recommends that the State party, working in close cooperation at all stages of the process with the United Nations and with indigenous peoples and Afro-descendent communities, in particular, take the necessary steps to refine its census methodology and develop appropriate, reliable statistical tools for use in the 2012 census that are in keeping with the principle of self-identification. The Committee requests the State party to include disaggregated, up-to-date statistics in its next periodic report on the composition of the population and reminds it that such information is needed as a basis for the development of suitable public policies and programmes for sectors of the population subject to racial discrimination and for the evaluation of the application of the Convention in respect of the different groups that make up society.

(9) The Committee observes with concern that no definition of the term "racial discrimination" is to be found in the State party's laws and that racial discrimination is not defined as an offence, as required under article 4, subparagraph (a), of the Convention. The Committee takes note of the detailed information provided by the delegation about an anti-discrimination bill but is concerned by its slow progress through the legislature (arts. 1, 2, para. 2, and 4 (a)).

The Committee encourages the State party to expedite the passage of the necessary legislation to prevent racism and discrimination, including the anti-discrimination bill, which sets forth a definition of racial discrimination that is in keeping with article 1 of the Convention and that defines the various manifestations of racial discrimination as a punishable offence in accordance with article 4 of the Convention. The Committee urges the State party to take into consideration its general recommendation No. 15 (1993) on article 4 of the Convention, which expressly states that all provisions of that article are of a mandatory character.

(10) The Committee regrets that the State party's report does not provide precise statistics or information on the number of complaints, court proceedings or judgements concerning acts of racism in the country as outlined in article 4 of the Convention.

The Committee recommends that the State party provide an assessment in its next report of complaints, court proceedings and judgements in the country dealing with acts of racism. In this connection, the Committee invites the State party to take into consideration its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

(11) While the Committee takes note of the information supplied about the special measures implemented in the State party to contribute to the advancement and protection of sectors of the population subject to racial discrimination, it is concerned about the segmentation of the labour market and the low level of representation of indigenous and Afro-descendent communities and other vulnerable groups in decision-making positions, in social participation mechanisms and in education. It is also concerned by the lack of information about how people make use of these special measures and about their impact or scope (arts. 2, para. 2, and 5).

The Committee encourages the State party to launch a campaign for the purpose of gathering information that can be used to evaluate the extent to which these special measures are designed and applied in ways suited to the needs of the communities concerned. It recommends that the State party undertake a study to determine what impact existing special measures have had on the target communities' enjoyment of their rights and that their implementation be monitored and evaluated on a regular basis. In this connection, the Committee invites the State party to take into consideration its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention.

(12) While the Committee is appreciative of the fact that constitutional recognition has been extended to indigenous peoples, it is concerned that, in practice, the absence of a comprehensive policy for the protection of their rights and the existence of insufficient institutional capacity pose serious obstacles to indigenous peoples' full enjoyment of their rights. The situation of indigenous women is of particular concern to the Committee, as they are subject to multiple, intersectional forms of discrimination because of their ethnic origin, gender, occupational status and poverty. The Committee is also concerned about the failure to act upon the recommendations set forth in the report of the Truth, Justice and Reparations Commission concerning means of addressing persistent racial discrimination on the basis of time-bound objectives (arts. 2 and 5 (c), (d) and (e)).

The Committee recommends that the State party take the necessary steps, including legislative measures and the establishment of national budget allocations, to ensure equal rights for indigenous peoples. It further recommends that the State party redouble its efforts to implement the recommendations contained in the report of the Truth, Justice and Reparations Commission concerning ways of countering racial discrimination. 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 its institutional structure for the implementation of policies concerning indigenous peoples. It also encourages the State party to accept advisory assistance and to agree to receive visits from experts, including the Special Rapporteur on the rights of indigenous peoples. The Committee also invites the State party to take into consideration its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

(13) The Committee notes with concern that many children belonging to vulnerable groups are not registered or lack identity documents and do not receive basic services in respect of health care, nutrition, education or cultural activities (art. 5 (d) and (e)).

The Committee recommends that the State party take the necessary steps to register all children in its territory, particularly those residing in areas inhabited by indigenous peoples, while safeguarding and respecting their culture, and ensure that they receive the services required to promote their intellectual and physical development.

(14) The Committee is concerned by the fact that INDI lacks institutional autonomy and functional authority over other departments and ministries of the State party and by the fact that, in the absence of a statutory mandate for full consultations with indigenous peoples, these peoples do not perceive the Institute as a body that represents them. The Committee is also concerned by the fact that indigenous peoples are not systematically provided with the relevant information or consulted beforehand with a view to obtaining their informed consent to decisions that have an impact on their rights. This is made evident by the recent INDI resolution on consultations which was directed to all governmental agencies (arts. 2 and 5 (d) (viii)).

The Committee recommends that the State party undertake an institutional assessment of INDI with a view to converting it into an autonomous institution that represents the country's indigenous peoples and equipping it with the appropriate authority and resources, as well as with a mandate that covers cases of racial discrimination. The Committee also recommends that the State party take the necessary steps to create an atmosphere of trust that will be conducive to dialogue with indigenous peoples and that it do what is necessary to ensure that indigenous peoples are effectively involved in decision-making processes in areas in which their rights could be affected, taking into consideration the Committee's general recommendation No. 23 (1997) on the rights of indigenous peoples.

(15) While the Committee was interested to learn from the Paraguayan delegation that 45 per cent of the indigenous communities that do not yet have secure and definitive legal land titles will have been awarded such titles by the year 2020, it is concerned that the absence of an effective system for the recognition and restitution of land rights prevents indigenous communities from gaining access to their ancestral lands. Another source of concern is the State party's failure to undertake full investigations and action in response to threats and violence against some indigenous and Afro-descendent communities in connection with evictions from their lands (arts. 2 (c) and (d), 5 (d) (v) and (vi) and 6).

The Committee recommends that the State party adopt the necessary reforms, including legal and administrative measures, to ensure that the domestic justice system has effective and sufficient means of protecting indigenous and Afro-descendent communities' rights, including effective mechanisms for lodging complaints and claims concerning land, for bringing about the restitution of their lands and for fully recognizing their land rights in a coordinated and systematic manner. The Committee urges the State party to undertake a prompt and effective investigation into threats and incidents of violence, to identify and prosecute the

persons responsible for them and to ensure that victims and their families have an effective remedy available to them.

(16) While taking note of the State party's efforts to abolish servitude in the Chaco, the Committee reiterates its concern about the social and economic situation of the indigenous communities in that territory, which it has addressed under its early warning and urgent action procedure. The Committee is concerned by the continued practice of debt servitude, exploitation of child domestic workers (*criadazgo*) and violations of the human rights of members of indigenous communities in that territory (arts. 4 and 5).

The Committee recommends that the State party take urgent action to ensure that the indigenous communities of the Chaco are able to fully exercise their rights. It recommends that the State party intensify its efforts to prevent, investigate and duly prosecute cases of forced labour and to guarantee that the communities concerned have access to justice. It also encourages the State party to establish a plan of action whose components include training for labour inspectors and initiatives for raising workers' and employers' awareness of the need to eradicate forced labour in the indigenous communities of the Chaco. The Committee further encourages the State party to continue to work with specialized agencies of the United Nations in this connection.

(17) While noting with interest the information furnished by the State party on the situation of the Yakye Axa and Sawhoyamaxa indigenous communities, which the Committee addressed under its early warning and urgent action procedure, on the status of the Xamok Kasek community, and on the steps taken to date to partially comply with the judgements handed down by the Inter-American Court of Human Rights concerning these three communities, the Committee is concerned by the delay in executing the most important aspects of those judgements, particularly the restitution of these communities' ancestral lands. The Committee is also concerned by the fact that the Inter-Agency Commission for the Enforcement of International Judgements has no mandate to coordinate actions taken by the legislative and executive branches (arts. 2, 5 (d) (v) and (vi), and 6).

The Committee calls upon the State party to take, as a matter of urgency, the necessary steps to fully comply with the judgements of the Inter-American Court of Human Rights, in which it found for the Yakye Axa, Sawhoyamaxa and Xamok Kasek indigenous communities, and to do so in accordance with an established timetable. It further recommends that the Inter-Agency Commission for the Enforcement of International Judgements be strengthened so that it is able to coordinate the efforts of the different branches of government to fulfil the State party's obligations.

(18) The Committee is concerned about the social and economic status of Paraguayans of African descent, the fact that they lack recognition and visibility, and the lack of social and educational indicators for this group, which hinders the State party from learning more about its members' situation and developing public policies to assist them. It is also concerned by the continued discrimination against Paraguayans of African descent in terms of access to public places and services simply because of who they are (arts. 2 and 5).

The Committee urges the State party to adopt the necessary measures, including the allocation of human and financial resources, to ensure that persons of African descent are able to exercise their rights. It invites the State party to put mechanisms in place in order to ensure that Afro-descendent communities participate in the design and approval of public policies and standards and in the implementation of projects that affect them and to do so in cooperation with these communities and the United Nations, particularly the Office of the United Nations High Commissioner. The Committee recommends that the State party work to ensure that access to public

places and services is not made selective or limited on the basis of race or ethnic origin.

(19) The Committee notes with interest that the State party is under a constitutional obligation to promote the Guaraní language, which is an official language, and the languages of other indigenous and minority groups and to undertake to provide intercultural, bilingual education. It is concerned, however, by the fact that Languages Act No. 4251 is not being fully implemented and by the lack of information on students' access to schooling in their mother tongue (art. 5 (a) and (e) (v)).

The Committee recommends that the State party implement Languages Act No. 4251 without delay and that it set a timetable and provide a suitable budget for this purpose, especially in connection with the use of the two official languages on an even footing in, inter alia, education, vocational training and the administration of justice. The Committee also recommends that, in the course of the State party's efforts to cultivate and reinforce the languages of indigenous and other minority groups, it take into consideration Expert Mechanism Advice No. 1 (2009) on the rights of indigenous peoples to education.

(20) The Committee is gratified that the status of the Office of the Ombudsman is recognized in the Constitution and that the Department for Indigenous Peoples and the Department for Action against Discrimination have been established within it. The Committee is concerned, however, about the extent of the Office's institutional capacity and about the lack of knowledge in the State party about the Office's duties and the actions it takes to protect the rights of victims of racial discrimination. The Committee regrets that information is not available on what progress has been made in acting upon complaints of racial discrimination received by the Office of the Ombudsman or on the outcome of any action taken (arts. 6 and 7).

The Committee encourages the State party to take the necessary steps to strengthen the operational capacity of the Office of the Ombudsman and to see to it that the Office of the Ombudsman makes a stronger commitment to protecting the human rights of indigenous peoples and Afro-Paraguayan communities. It also recommends that the State party provide information in its next periodic report on the progress made in resolving cases of racial discrimination that have been brought to the attention of the Office of the Ombudsman.

(21) The Committee notes with interest that a national action plan on human rights is being drawn up by all three branches of government in collaboration with the Office of the United Nations High Commissioner (art. 7).

The Committee encourages the State party to continue its work on a national action plan on human rights and to ensure that this is a participatory process that addresses the issue of racial discrimination and the subject of the rights of indigenous communities, the population of African descent and other national ethnic groups within Paraguayan society. Provision should be made for the inclusion of human rights indicators so that progress in implementing the national plan and its impact on these communities can be gauged. The Committee urges the State party to garner support for the plan at the national and departmental levels and to provide for appropriate allocations of human and financial resources for its implementation. It recommends that this plan be integrated with other mechanisms for the protection of human rights in the State party.

(22) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider acceding to those international human rights instruments to which it is not yet a party, particularly those that have a direct bearing on the issue of racial discrimination, such as the Optional Protocol to the International Covenant on Economic,

Social and Cultural Rights and the Convention on the Prevention and Punishment of the Crime of Genocide.

(23) In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when incorporating the Convention into its domestic legislation, the State party bear in mind the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, together with the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party, in its next periodic report, include specific information on plans of action and other steps adopted in order to give effect to the Durban Declaration and Programme of Action at the national level. The Committee also recommends that the State party assign responsibility for addressing cases of racial discrimination to an autonomous institution and that it endow that institution with the necessary authority to monitor and support the implementation of the Durban Programme of Action at the national level.

(24) The Committee recommends that the State party develop, carry out and publicize in the media an appropriate programme of activities to mark 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (resolution 64/169 of 18 December 2009).

(25) The Committee takes note of the State party's position and recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention that were approved on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in resolution 47/111 of 16 December 1992. In this connection, the Committee recalls General Assembly resolution 61/148 of 19 December 2006 and resolution 63/243 of 24 December 2008, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(26) The Committee encourages the State party to consider the possibility of making the optional declaration provided for in article 14 of the Convention.

(27) The Committee notes with appreciation that the State party makes its reports readily available to the public as soon as they are submitted and recommends that it ensure that the Committee's concluding observations are also publicized and disseminated in the official languages and other commonly used languages, as appropriate.

(28) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on the steps taken to act upon the recommendations contained in paragraphs 9, 16 and 17 above.

(29) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 8, 14, 15, 18 and 19 and requests that it include detailed information in its next periodic report on the specific measures taken to implement them.

(30) The Committee recommends that the State party submit its fourth through sixth periodic reports in a single document by 17 September 2014 and notes that, in preparing those reports, it should follow the specific guidelines adopted by the Committee on the Prevention of Racial Discrimination at its seventy-first session (CERD/C/2007/1) and should address all points raised in these concluding observations. The Committee urges the State party to observe the 40-page limit for treaty-specific reports and the 60–80 page limit for the common core document (see the harmonized guidelines on reporting contained in document HRI/GEN.2/Rev.6, paragraph 19).

54. **Republic of Moldova**

(1) The Committee considered the eighth and ninth periodic reports of the Republic of Moldova (CERD/C/MDA/8-9), submitted in one document, at its 2073rd and 2074th meetings (CERD/C/SR.2073 and CERD/C/SR.2074), held on 1 and 2 March 2011. At its 2087th meeting (CERD/C/SR.2087), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the timely submission of the combined eighth and ninth periodic reports of the State party and the opportunity thus offered to continue the dialogue with the State party. The Committee also acknowledges with appreciation the State party's submissions (CERD/C/MDA/CO/7/Add.1 and Add.2) on follow-up measures taken with regard to the Committee's previous concluding observations. The Committee also expresses appreciation for the constructive dialogue held with the delegation as well as the oral responses provided to the questions posed by the Committee members.

(3) The Committee notes that the Transnistria region continues to be outside the effective control of the State party, which is therefore unable to monitor the implementation of the Convention in that part of its territory (CERD/C/MDA/8-9, paras. 8-11).

B. Positive aspects

(4) The Committee welcomes the following legislative and other measures taken by the State party:

(a) The Asylum Act of 18 December 2008;

(b) The Law on Foreigners of 24 December 2010;

(c) The 2008-2012 National Programme for the development of an integrated social-services system on the situation of marginalized groups;

(d) The Government decision No. 1512 of 31 December 2008 on the approval of the 2008-2012 national programme for the creation of a comprehensive social services system;

(e) The 2008-2010 Plan of Action for the implementation of the Committee's conclusions and recommendations, of 17 November 2008.

(5) The Committee welcomes the information provided by the delegation about the State party's plan to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints and encourage the State party to do so without delay.

(6) The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities in September 2010 and of the Rome Statute of the International Criminal Court in October 2010.

(7) The Committee also welcomes the ratification by the State party of human rights instruments of the Commonwealth of Independent States and of the Council of Europe, which have direct relevance to the application of the Convention.

C. Concerns and recommendations

(8) The Committee takes note of the data provided in the State party's report on the ethnic composition of the population, drawn from the 2004 census. However, the Committee is concerned about the lack of precise and reliable data on the actual ethnic make-up of the population in Moldova, in particular with regard to the Roma minority, as well as on the lack of systematic collection of data on social inclusion and discrimination-

related issues and cases. The Committee also regrets that official public reporting of ethnic groups in Moldova lists Roma within the category "Other" despite being a very sizable minority. While noting with interest the information provided about the next census scheduled in 2013, the Committee is concerned that the current data-collection methodology does not give full effect to the right to self-identification. The Committee further regrets that, for official purposes, including in the official registries, there is no possibility to self-identify as "Roma", with only the term "Tsigan" ("Gypsy") being used (art. 2).

The Committee recommends that the State party improve its data-collection system on the groups covered by the Convention so as to better evaluate the situation regarding the different minority groups in the State party, determine the extent of manifestations of racial discrimination and assess the efficacy of integration policies, respecting the right to self-identification. The Committee also recommends that the State party provide, in its next report, comprehensive, precise and reliable data on the ethnic composition of the population disaggregated by gender, age, religion, ethnic group and nationality.

(9) The Committee notes with interest the recent development with regard to the draft Law on Preventing and Combating Discrimination, which has been transmitted to the Parliament for adoption (arts. 2 and 6).

The Committee recommends that the State party adopt as a matter of priority the Law on Preventing and Combating Discrimination and bring its provisions into conformity with relevant international standards, including the Convention, by guaranteeing the protection of both citizens and non-citizens, ensuring the efficiency and the independence of the enforcement body, and containing provisions on adequate sanctions and compensation for racial discrimination and a shared burden of proof in civil proceedings.

(10) The Committee welcomes various measures taken by the State party to improve its legal framework with a view to combating racial discrimination (arts. 2 and 6). The Committee is however concerned about:

(a) The lack of effective implementation of the existing anti-discrimination provisions, including articles 176 and 346 of the Criminal Code and the Extremist Activity Law;

(b) The small number of complaints of acts of racial discrimination lodged with courts and other relevant authorities in spite of persistent reports of de facto discrimination against members of certain minority groups and non-citizens including migrants and refugees;

(c) The ineffective follow-up to those complaints by the authorities.

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Ensure the proper implementation of the existing anti-discrimination provisions and the effective investigation and persecution of racially motivated offences;

(b) Actively assist victims of racial discrimination seeking remedies and inform the public about legal remedies in the field of racial discrimination;

(c) Assess reasons for the very low number of complaints relating to racial discrimination, including whether it may be due to victims' lack of awareness of their rights, fear of reprisals, limited access to available mechanisms, lack of confidence in

the police and the judiciary, or the authorities' lack of attention or sensitivity to cases of racial discrimination;

(d) Provide in the next periodic report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings and by State human rights institutions, including on any reparations provided to victims of such acts.

(11) The Committee, while noting various human rights training programmes organized by the State party for its officials such as the session in Chişinău in December 2008, regrets the limited provision for human rights training for the police, prosecutors and judges (art 7).

The Committee recommends that the State party introduce mandatory training for the police, prosecutors and judges on the application of anti-discrimination legislation and the Convention.

(12) While noting with interest the measures recently taken by the State party to strengthen the Parliamentary Advocates/Center for Human Rights of Moldova, the Committee regrets the absence of a national human rights institution fully compliant with the Paris Principles (General Assembly resolution 48/134) in Moldova. The Committee also expresses its concern that the Parliamentary Advocates office has never used the powers under Act No. 1349-XIII of 17 October 1997, including that of petitioning a court for protection of the interests of alleged victims of discrimination (art. 2).

The Committee recommends that the State party consider, in consultation with civil society, the option of establishing an independent national human rights institution fully compliant with the Paris Principles, including by transforming and empowering the existing mechanism so as to conform with the Paris principles. To that end, the Committee recommends that the State party guarantee the independence of the Parliamentary Advocates office and strengthen its role in the elimination of racial discrimination by effectively using its legal power.

(13) The Committee notes with appreciation the ratification by the State party of all fundamental ILO Conventions as well as the improvements in the regulatory framework on non-citizens including the draft law amending the Labour Code which adds "skin colour" and "HIV/AIDS infection" into the list of prohibited grounds of discrimination. However, the Committee remains concerned, in light of the 2008 direct request made by the ILO Committee of Experts on the Application of Conventions and Recommendations (Migration for Employment Convention, No. 97), that migrant workers from Africa and Asia face serious discrimination and are extremely reluctant to bring their cases before national courts. The Committee furthermore expresses its deep concern that non-citizens are subjected to mandatory HIV/AIDS testing and that residence in Moldova is banned in the case of a positive HIV test (arts. 2 and 5).

Taking into consideration the Committee's general recommendation No. 30 (2005) on discrimination against non-citizens and the International Guidelines on HIV/AIDS and Human Rights, adopted at the Second International Consultation on HIV/AIDS and Human Rights in 1996, the Committee recommends that the State party:

(a) Ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens;

(b) Ensure that when HIV testing is carried out, it does not infringe the principle of non-discrimination;

(c) Take measures to remove restrictions on the entry or repatriation of migrant workers when workers' illness or infection does not impair their ability to perform the work in question.

(14) The Committee notes with deep concern that the right to freedom of religion, especially of persons belonging to ethnic minorities, continues to be restricted in Moldova in spite of various actions taken by international and regional human rights organs (the Human Rights Committee (CCPR/C/MDA/CO/2), para. 25; the Special Rapporteur on freedom of religion or belief (A/HRC/16/53/Add.1), paras.336-361; the European Court of Human Rights, *Masaev* v. *Moldova*, Application No. 6303/05). Taking into account the intersectionality between ethnicity and religion (arts. 2 and 5(d)), the Committee is concerned at:

(a) The reported cases of discrimination and intimidation against religious minority groups and non-citizens;

(b) Restrictions on the right of freedom of religion as a result of the persistent registration difficulties faced by some religious groups, in particular Muslim groups, and the possible misapplication of technical requirements for registration;

(c) Administrative sanctions applied to individuals belonging to unregistered religious organizations;

(d) Administrative sanctions applied to non-citizens carrying out religious activities in public places for not providing advance notification to municipalities, under article 54(4) of the Contravention Code;

(e) Identity checks of Muslims outside places of worship and reported cases of harassment of Muslims by the police;

(f) The inadequate responses by the authorities to recent anti-Semitic events, anti-Semitic hate speech and vandalism of religious sites (A/HRC/16/53/Add.1, paras. 336-345; A/HRC/15/53, para. 66).

Recalling 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 of the Convention, the Committee urges the State party to:

(a) Take measures to prevent acts directed against persons or religious sites belonging to minorities, and in cases where such acts do occur, effectively investigate them and bring perpetrators to justice;

(b) Respect the right of members of registered and unregistered religions to freely exercise their freedom of religion, review existing registration regulations and practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private regardless of registration status;

(c) Register religious groups who wish to be registered, taking into consideration the United Nations Commission on Human Rights resolution 2005/40 and the practice of the Special Rapporteur on freedom of religion or belief;

(d) Take immediate steps to stop practice of arbitrary identity checks by law enforcement authorities;

(e) Sensitize the public to the problems relating to anti-Semitism and reinforce its efforts to prevent and punish anti-Semitic acts;

(f) Provide, in its next periodic report, information on measures taken in this regard and their impact on de facto exercises of freedom of religion by minority groups.

(15) The Committee, while noting the various measures and initiatives taken by the State party in favour of Roma including the 2007-2010 Action Plan in support of the Roma population, remains concerned about the continued marginalization and precarious socio–economic situation of members of this minority, and the discrimination with which they are faced, including in the fields of education, housing, health and employment. The Committee also regrets the lack of resources to effectively implement the 2007-2010 Action Plan (arts. 2 and 5).

The Committee urges the State party to enhance its efforts aimed at combating discrimination against Roma. In light of its general recommendations Nos. 27 (2000) on discrimination against Roma and 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party ensure that special measures and programmes in favour of Roma, inter alia the new Action Plan for 2011-2014, are designed and implemented on the basis of need, that sufficient resources are allocated and implementation monitored.

(16) The Committee, noting the importance of linguistic integration in Moldova and the requirements for the knowledge of the State language and Russian to work in public service (art.5), expresses its concern at:

(a) The persistent difficulties faced in the labour market and in their participation in public administration by persons belonging to minority groups;

(b) The very low level of participation in political life and the limited representation in Parliament of certain minorities, in particular Roma;

(c) The absence of a mechanism for the implementation of article 24 of Act No. 382-XV of 19 July 2001 on the rights of members of ethnic minorities and the legal status of their organizations, under which ethnic minorities are entitled to approximately proportional representation at all levels of the executive and the judiciary (CERD/C/MDA/8-9, para. 102).

The Committee recommends that the State party:

(a) Extend free training programmes of the State language and official languages, especially the Gagauz language, to those who are willing to learn and ensure the effective implementation of the relevant positive measures including the project "training for linguistic minorities in Moldova";

(b) Ensure greater participation in public life, including in public administration and Parliament, by members of minorities, in particular Roma;

(c) Consider establishing a mechanism of the implementation of article 24 of Act No. 382-XV of 19 July 2001 with a view to ensuring without delay proportional representation of ethnic minorities in all levels of the executive and the judiciary.

(17) The Committee is concerned about the lack of acknowledgement of the existence of racial discrimination among some media, politicians and members of religious groups. The Committee regrets the persistence of negative societal attitudes and stereotypes against Roma and other persons of minority ethnic origin (art. 7).

The Committee recommends that the State party increase its efforts, in the fields of teaching, education, culture and information, to combat prejudices, including among public servants, against ethnic minorities such as Roma. The Committee emphasizes

the particular role of the education system and the media – and above all the state media – in ending stereotypes and promoting respect for diversity. The Committee urges the political leadership to emphasize publicly the values of equality and non-discrimination. The Committee further recommends that the State party allocate adequate financial and human resources to the Bureau for Interethnic Relations with a view to promoting tolerance and respect for their cultures and history and to fostering inter-cultural dialogue among the different ethnic groups in Moldova.

(18) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(19) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(20) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

(21) The Committee recommends that the State party expand its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(22) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(23) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(24) Noting that the State party submitted its core document in 2001, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

(25) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 11, 12 and 14 above.

(26) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 13 and 15 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(27) The Committee recommends that the State party submit its tenth and eleventh periodic reports in a single document, due on 25 February 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

56. **Rwanda**

(1) The Committee on the Elimination of Racial Discrimination considered the thirteenth to seventeenth periodic reports of Rwanda, submitted in a single document (CERD/C/RWA/13-17), at its 2082nd and 2083rd meetings (CERD/C/SR.2082 and 2083), held on 8 March 2011. At its 2088th meeting (CERD/C/SR.2088), held on 11 March 2011, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the combined periodic reports submitted by the State party in a single document and the additional information provided orally by the delegation. It welcomes the presence of a high-level delegation from the State party and the resumption of dialogue with the latter after a gap of 11 years. The Committee commends the State party on the quality of its report, which followed the Committee's reporting guidelines, and the delegation's replies to Committee members' questions and comments.

B. Positive aspects

(3) The Committee notes with satisfaction that the Constitution adopted in 2003 contains provisions on the prevention of racial discrimination.

(4) The Committee welcomes the adoption of several laws aimed at preventing and combating discrimination, including:

(a) Law No. 33 bis/2003, of 6 September 2003, making the crime of genocide, crimes against humanity and war crimes punishable offences;

(b) Law No. 13/2009 of 27 May 2009, regulating labour in Rwanda, article 12 of which prohibits any distinction, exclusion or preference based on race, colour, sex or political opinion which would have the effect of destroying or impairing equality of opportunity in employment;

(c) Law No. 22/2002 of 9 July 2002, containing the General Statute of Public Service;

(d) Organic Law No. 20/2003, organizing education in Rwanda, which prohibits discrimination in education;

(e) Law No. 18/2002 of 11 May 2002, regulating the press, which prohibits incitement to commit crimes of a discriminatory nature;

(f) The new legislation on nationality, which repealed all restrictions on the right to nationality for Rwandans who had been deprived of their nationality between 1 November 1959 and 31 December 1994, and which allows dual nationality;

(g) Law No. 09/2004 of 27 April 2004, establishing the Code of Ethics for the Judiciary, which compels judges to serve the cause of justice without discrimination, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion or social status.

(5) The Committee notes with satisfaction that the State party has established a number of bodies and institutions having the authority to combat discrimination, such as the National Human Rights Commission, the Office of the Ombudsman, the National Commission for Unity and Reconciliation and the National Commission for the Fight against Genocide.

(6) The Committee likewise notes with satisfaction that the State party has taken measures to promote unity and reconciliation, social cohesion, tolerance and peace among the various groups, through, for example, the *gacaca* popular courts, the National Dialogue Council, the reconciliation summits (*bakangurambaga*), the *Ingando* camps, the *Itorero* forums and community associations and initiatives, as well as the abolition of national identity cards that revealed the holder's ethnic group.

(7) The Committee welcomes the information from the State party to the effect that Rwanda has withdrawn its reservation to article 22 of the Convention.

(8) The Committee likewise welcomes the fact that the State party has cooperated fully with the International Criminal Tribunal for Rwanda, as the Committee recommended in its preceding concluding observations, issued in 2000 (CERD/C/304/Add.97, para. 14).

C. Concerns and recommendations

(9) The Committee notes the efforts of the State party to promote and achieve national reconciliation and social cohesion among the various groups that make up the population. It also notes that the State party's overall approach, which is marked by the tragic genocide of 1994, seeks to change fundamental perceptions of ethnic divisions in order to achieve national unity. The Committee wonders, however, whether the achievement of reconciliation and national unity might not be to the detriment of the specific characteristics of certain groups, particularly the Batwa.

The Committee invites the State party to take into account, in its efforts to achieve reconciliation, national cohesion and unity, the specific characteristics of each of the groups that make up the population, including in the implementation of the various mechanisms, plans and programmes, particularly Rwanda Vision 2020, so that reconciliation, cohesion and national unity observe all aspects — including the political, economic, social and cultural aspects — of the human rights of persons belonging to these groups.

(10) The Committee takes note of the explanations provided in the report of the State party (CERD/C/RWA/13-17, paras. 5–13) and confirmed by the State party delegation to the effect that the terms Batwa, Bahutu and Batutsi refer not to ethnic groups but to social classes. The report also explains that the population of Rwanda comprises a single ethnic group sharing the same language and the same culture, making it impossible to compile ethnic data on its composition. However, the Committee notes with concern the absence in the State party's report of any statistical data on the composition of the population or on the number of non-citizens residing in the territory of the State party and their socio-economic status.

In light of its general recommendation No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention, and paragraphs 10 to 12 of its revised guidelines for the preparation of periodic reports (CERD/C/2007/1), the Committee recommends that the State party provide information on the composition of the population and other information from socio-economic studies that

will allow the economic, social and cultural situation of the population to be assessed. The Committee also recommends that the State party furnish comprehensive data, disaggregated by sex and national or ethnic origin, on the number of non-citizens living in its territory and on their socio-economic situation, in accordance with the Committee's general recommendation No. 30 (2005) on discrimination against non-citizens.

(11) The Committee regrets the position taken by the State party not to recognize the Batwa as an indigenous people.

The Committee, recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, recommends that the State party review its position on the Batwa community and contemplate recognizing the Batwa as an indigenous people.

(12) The Committee is uncertain as to the meaning, scope and content of the notion of "historically marginalized groups" which appears in the State party's report and which includes the Batwa community, according to information provided by the State party delegation.

The Committee recommends that the State party clarify the notion of "historically marginalized groups" which appears in the State party's report, so as to enable the members of the Batwa community, among others, to fully enjoy their rights under the Convention.

(13) While noting that article 11 of the State party's Constitution prohibits racial discrimination, the Committee is concerned that this provision is not fully consistent with article 1 of the Convention, given the absence of any wording related to descent or national origin (art. 1).

The Committee recommends that the State party take appropriate steps to ensure that this provision of the Constitution is fully consistent with article 1 of the Convention by including in it the concepts of descent and national origin.

(14) While noting the State party's commitment to combating genocide and revisionism, the Committee is concerned by the fact that the definition of "the ideology of genocide" contained in article 2 of Law No. 18/2008 of 23 July 2008, which makes the ideology of genocide a punishable offence and supplements articles 9, 13 and 33 of the Constitution, is too broad, and by the fact that intention is not one of the constituent elements of the crime of the ideology of genocide listed in article 3 of the aforementioned law (art. 2).

The Committee recommends that the State party contemplate revising Law No. 18/2008 of 23 July 2008, which makes the ideology of genocide a punishable offence, with a view to making the definition of the term "the ideology of genocide" in article 2 more specific, and to include intention as one of the constituent elements of this crime listed in article 3, and thus to provide all the guarantees of predictability and legal security required of a criminal law and prevent any arbitrary interpretation or application of this law.

(15) The Committee notes that the State party's criminal legislation, in particular the Penal Code, does not cover all the offences punishable by law set out in article 4 of the Convention (art. 4).

Recalling its general recommendations Nos. 1 (1972), 7 (1985) and 15 (1993), according to which the provisions of article 4 of the Convention are of a preventive and obligatory nature, the Committee recommends that the State party include the necessary provisions in its Penal Code so as to give full effect to article 4 of the Convention.

(16) The Committee is concerned at reports it has received of the persistence of negative stereotypes where the Batwa are concerned. It is also concerned at the weak impact of the measures taken by the State party to help the Batwa, who continue to suffer from poverty and discrimination in obtaining access to:

(a) Education, their educational level remaining the lowest and their dropout rate the highest as compared with the rest of the population;

(b) Adequate housing, given that the destruction of their habitat is not always accompanied by specific proposals for alternative housing;

(c) Social services;

(d) Employment (art. 5).

Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party intensify its efforts, in particular by taking special measures, to combat the persistent inequalities between the Batwa and the rest of the population, and also the high level of marginalization and poverty of the Batwa community. To this end, the Committee recommends that the State party:

(a) Combat stereotypes and ensure that the Batwa are not victims of discrimination, and that they benefit equally with other population groups from plans and programmes implemented by the State party;

(b) Facilitate and guarantee Batwa children's access to education without discrimination, in particular by taking steps to cut the high dropout rate, and continue to promote awareness of the importance of education among adults of the Batwa community;

(c) Facilitate access by the Batwa to adequate housing, including by preventing forced evictions without prior consultation and without any offer of alternative housing;

(d) Ensure that the Batwa enjoy effective access to health care and health services;

(e) Develop training and apprenticeship opportunities for the Batwa with a view to facilitating their integration in the labour market.

The Committee recommends that the State party provide information on this subject in its next periodic report.

(17) The Committee takes note with concern of reports brought to its attention that no land was offered to the Batwa after their land was expropriated without prior consultation with them about the construction of parks. According to the same sources, the Batwa have not benefited from the land distribution plan established by the State party, which would have allowed them to retain their traditional lifestyle (art. 5).

The Committee recommends that the State party take all necessary steps, in consultation with and with the agreement of the Batwa, to offer them adequate land, inter alia under the land distribution plan established by the State party, so that they can retain their traditional lifestyle and engage in income-generating activities.

(18) While taking note of the information provided by the State party regarding the participation of all groups in political and public life, the Committee is concerned at the lack of specific information on the participation of the Batwa in the public and political life of the State party at both the local and national levels (art. 5).

The Committee recommends that the State party take special measures to encourage and promote the participation of the Batwa in political and public life by such means as awareness campaigns among the rest of the population and training for the Batwa. The Committee recommends that the State party provide information on this subject in its next periodic report.

(19) The Committee is concerned at the lack of information on complaints, prosecutions, sanctions and reparations relating to instances of racial discrimination apart from those linked to the 1994 genocide. It is likewise concerned at reports that the Batwa do not receive equal treatment in the courts and that they have difficulty obtaining access to justice in order to defend their rights (arts. 5 and 6).

Referring to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social censure or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee recommends that the State party take all necessary steps to facilitate the access of the Batwa to justice, to disseminate legislation relating to racial discrimination, particularly among the Batwa, and to inform the latter of all the legal remedies available to them and of the possibility of obtaining legal assistance. It further recommends that the State party provide comprehensive information on this subject in its next periodic report.

(20) The Committee takes note of the information provided by the State party to the effect that the *gacaca* courts are to cease their functions. It is concerned, however, that certain cases pending in the *gacaca* courts may not be heard with all the guarantees of due process (art. 6).

The Committee recommends that the State party take all necessary steps to ensure that the mechanism established to hear the cases pending in the *gacaca* courts respects all guarantees of due process.

(21) While taking note of the State party's efforts to promote tolerance and reconciliation, particularly through the teaching of the history of the genocide, civic education, the introduction of human rights in school curricula, and awareness campaigns in the various media, the Committee seeks assurances that such promotional activities adequately cover all segments of the population in the State party, including certain "historically marginalized groups" such as the Batwa, who have greater problems gaining access to the media and to education. The Committee also wonders whether human rights education is offered specifically to law enforcement officers, and to police and judicial officers in particular (art. 7).

The Committee recommends that the State party take additional measures to ensure that civic education and efforts to teach, promote and foster awareness of human rights and the Convention cover all segments of the population, in particular the "historically marginalized groups", whose access to the media is not always guaranteed. The Committee recommends that the State party redouble its efforts to ensure that law enforcement officers receive training in human rights and in the provisions of the Convention in particular.

(22) Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights treaties to which it is not yet a party, particularly those which have a direct bearing on the question of racial discrimination, such as the International Labour Organization (ILO) Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

(23) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party take into account the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. 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.

(24) The Committee recommends that the State party establish a suitable schedule and ensure adequate media coverage for the celebration of 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (resolution 64/169).

(25) The Committee recommends that, in connection with the preparation of its next periodic report, the State party continue its consultations and pursue further dialogue with civil society organizations working in the field of human rights, especially those working to combat racial discrimination.

(26) The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties to the Convention (see CERD/SP/45, annex) and endorsed by the General Assembly in its resolution 47/111, of 16 December 1992. In this connection, the Committee draws attention to paragraph 14 of General Assembly resolution 61/148, in which the Assembly strongly urged States parties to the Convention 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.

(27) The Committee recommends that the State party's reports be made available to the public at the time of their submission and that the concluding observations on these reports be publicized in the official languages or national language, as appropriate.

(28) Noting that the State party has never submitted a core document, the Committee encourages it to submit one of between 60 and 80 pages in length, 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.4).

(29) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 9, 11, 15 and 19 above.

(30) The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12, 14, 18 and 20, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(31) The Committee recommends that the State party submit its eighteenth to twentieth periodic reports in a single document of no more than 40 pages by 16 May 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations.

55. **Serbia**

(1) The Committee considered the initial periodic report of the Republic of Serbia (CERD/C/SRB/1) at its 2067th and 2068th meetings (CERD/C/SR.2067 and CERD/C/SR.2068), held on 24 and 25 February 2011. At its 2086th meeting (CERD/C/SR.2086), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the initial report submitted by the Republic of Serbia and the opportunity thus offered to restart its dialogue with the State party on a new basis. The Committee appreciates the additional information provided orally by the delegation in response to the questions and comments posed by the Committee.

(3) The Committee notes that the report covers the period from 1992 to 2008 including the period of great losses and gross human rights violations in former Yugoslavia before the year 2000, which was not discussed in the report. The Committee encourages the State party to deal with the legacy of past discrimination as it moves forward with its reconstruction processes and to ensure inclusive public participation therein.

B. Positive aspects

(4) The Committee welcomes the ratification, in 2009, of the Convention on the Rights of Persons with Disabilities and its Optional Protocol by the State party.

(5) The Committee notes with interest the new Constitution of 2006 which includes a commendable chapter guaranteeing the protection of the rights of national minorities and contains provisions prohibiting discrimination in line with article 1 of the Convention.

(6) The Committee notes with appreciation that the Criminal Code of 2005 contains anti-discrimination provisions.

(7) The Committee notes with appreciation the adoption of a number of laws aimed at preventing or combating discrimination including:

(a) The Law on National Minorities Councils (2009);

(b) The Law on the Prohibition of Discrimination (2009);

(c) The Law on Gender Equality (2009);

(d) The Law on Social Housing (2009);

(e) The Law on Offences (2005, 2008 and 2009);

(f) The Law on the Prevention of Violence and Improper Conduct at Sports Events (2007 and 2009);

(g) The Law on the Ombudsman (2005 and 2007);

(h) The Law on the Prevention of Discrimination against Disabled Persons (2006);

(i) The Law on the Protection of Rights and Freedoms of National Minorities (2002).

(8) The Committee notes with interest the efforts made by the State party in establishing an extensive institutional framework to monitor the protection of human rights, including the Commissioner for the Protection of Equality, the Ministry of Human and Minority Rights, of the Ombudsman, the Provincial Ombudsman and the network of local Ombudsmen, the Council for National Minorities, and the Council for Improving the Status of the Roma.

(9) The Committee notes with satisfaction that the State party has adopted a number of programmes and plans for, inter alia, the prevention of discrimination against persons belonging to national minorities, including through the 2009 National Strategy for the Promotion of the Position of Roma and the expanded opportunities in certain areas of the State party for persons belonging to national minorities to learn their languages.

(10) The Committee notes with interest the longer term efforts to support and promote understanding and tolerance among national minorities living in the Autonomous Province of Vojvodina.

C. Concerns and recommendations

(11) The Committee notes with interest the existence of institutions dealing with racial discrimination, namely the Ministry of Human and Minority Rights, the Ombudsman Offices at the State, Provincial, and local levels, and the Commissioner for the Protection of Equality, and acknowledges the unique value of each, but is concerned about the possible overlap of roles and jurisdictions of these institutions which could result in preventing their effective functioning (art. 2 (c)).

The Committee recommends that the State party ensure the complementarity of these institutions by clarifying the competences and jurisdictions among the institutions dealing with racial discrimination. It recommends that the State party:

(a) Allocate sufficient resources to allow the effective functioning of the Commissioner for the Protection of Equality without delay;

(b) Strengthen the Ministry of Human and Minority Rights, including through an adequate allocation of human and financial resources;

(c) Ensure the effective functioning of the Office of the Ombudsman, in accordance with the Paris Principles of 1993.

The Committee also encourages the State party to carry out awareness-raising campaigns to familiarize the public administration and the general public with the roles, work, and ways to access the services provided by these organs.

(12) While noting with interest information on the upcoming Census in 2011 and the data on the national composition of the population provided in the State party's report, the Committee is concerned about the lack of disaggregated indicators on the enjoyment by the various groups of the rights guaranteed in national legislation and in the Convention.

The Committee recommends that the State party take into account in the elaboration of its next periodic report paragraph 11 of the Committee's Guidelines for the submission of treaty-specific documents (CERD/C/2007/1) and recalls that reliable, disaggregated information is necessary for the monitoring and evaluation of policies in favour of minorities and for assessing the implementation of the Convention. The Committee recommends that the State party develop time-bound indicators to monitor the impact of its policies and programmes and that it include this information in its next periodic report. The Committee also recommends that the State party guarantee, in its upcoming census, the right to self-identification.

(13) The Committee notes with interest the extensive legal framework and general policies to eliminate racial discrimination and prohibit incitement to national, racial or religious hatred, but is concerned that acts of racial discrimination, exclusive nationalism and hate speech are still prevalent in society, including in political discourse, in sports, in the media and by groups and organizations. The Committee is concerned about the absence of a codification of hate crimes and the fact that racially motivated offences may not be reported (arts. 2 (a), (b), (d) and (e), 4, and 6).

The Committee urges the State party to take all further necessary legislative, judicial and administrative measures to give effect to the provisions of articles 2 and 4 of the Convention and also that it:

(a) Enact legislation and other effective measures to prevent, combat and punish hate crimes and speech as well as incitement to hatred;

(b) Pursue and prosecute the activities of racist or xenophobic extremist groups, and if necessary, ban them;

(c) Intensify the enforcement of criminal law against racially motivated crimes;

(d) Combat racial prejudice and discrimination in the media, both public and private, including through increased efforts to foster understanding, tolerance and friendship among the various ethnic minority groups in the State party, and through the adoption of a code of media/journalistic ethics;

(e) Continue its efforts to combat racism in sports, particularly in football;

(f) Encourage and support non-governmental organizations and institutions that combat racial discrimination and promote a culture of tolerance and cultural and ethnic diversity.

The Committee requests that the State party provide, in its next periodic report, information on the enforcement and implementation of national legislation including statistics on and analysis of prosecutions launched and penalties imposed, in cases of acts prohibited under article 4 of the Convention.

(14) The Committee is concerned that the Roma population, in many cases, lives in segregated settlements and experiences discrimination in respect of adequate housing and, in particular, is often subject to forced evictions with no provision of alternative housing, legal remedies, or compensation for damage and destruction of personal property. While noting with interest the Law on Social Housing, the Committee expresses concern about the particular difficulties faced by Roma when applying for social housing programmes, resulting in a perpetuation of discrimination (arts. 2, 3, 5 (e) (iii) and 6).

The Committee urges the State party to ensure that any resettlements do not involve further forced evictions and that procedural protections which respect due process and human dignity be put in place. It recommends that the State party strengthen the measures aimed at improving the housing conditions of Roma, and in this regard, recommends that it accelerate the implementation of the National Plan for Housing of Roma adopted in 2009. In light of the Committee's general recommendations Nos. 27 (2000), paragraphs 30-31, on discrimination against Roma, and 32 (2009) on the meaning and scope of special measures, it also recommends that the State party intensify efforts to avoid residential segregation of minorities and encourages it to consider developing social housing programmes for Roma.

(15) The Committee expresses its concern that members of the Roma minority continue to experience segregation with regard to access to education. It is also concerned at the fact that Roma children returnees, upon readmission agreements from Western European countries, face additional difficulties in entering the Serbian educational system, due to, inter alia, enrolment and placement procedures (arts. 3 and 5 (e)(v)).

Bearing in mind its general recommendations No. 27, paragraphs 17-26 and No. 32 o, the Committee strongly urges the State party to address de facto public school segregation, and carry out the necessary measures to facilitate access to quality education including through anti-discrimination training for school staff and awareness-raising for parents, increasing the number of Roma teaching assistants,

preventing de facto segregation of Roma pupils, and other measures for the promotion of inclusive education. It also encourages the State party to develop specialized and appropriate procedures for the reception, assessment and placement of children returnees and to increase the awareness of school teachers of the importance of such procedures.

(16) While noting with appreciation the efforts taken by the State party to improve the situation of Roma, Ashkali and Egyptians and to prevent and combat racial discrimination against persons belonging to these groups, the Committee is concerned that they are subject to discrimination, prejudice, and stereotyping, in particular in access to employment, health-care services, political participation and access to public places (art. 2, para.2, and 5).

Bearing in mind its general recommendations Nos. 27 and 32 , the Committee encourages the State party to intensify its efforts to prevent and combat racial discrimination against Roma, Ashkali and Egyptians. It recommends that the State party ensure effective implementation of policies aimed at the equal enjoyment by Roma, Ashkali and Egyptians of the rights and freedoms listed in article 5 and special measures to advance their effective equality in employment in public institutions and adequate political representation at all levels. The Committee also encourages the State party to actively carry out campaigns that raise awareness of the difficult position of these groups, in particular Roma, and build solidarity.

(17) The Committee notes with concern the existing structural discrimination in the State party as indicated by the political and historical prejudices towards certain minorities including Bosniaks in Sanjak, Albanians in Southern Serbia, as well as Vlachs and Bunjevac communities. The Committee is concerned that they continue to be subject to exclusion and discrimination with regard to their rights and freedoms as referred to by the Convention, particularly in the areas of employment, education, and representation in the conduct of national public affairs (arts. 2, para. 1 (c) and (e), and 5).

The Committee recommends that the State party take the necessary measures, at all levels, to prevent stigmatization and prejudice against these groups to avoid and discourage tendencies that result in or perpetuate structural discrimination. It also recommends that the State party create an environment of dialogue to address these issues with the minority communities concerned and that it further encourage and implement projects and policies to eliminate barriers between communities. It encourages the State party to continue promoting the preservation and development of the languages and cultures of the aforementioned communities. The Committee also recommends that the State party adopt the necessary measures, including legislative, social and cultural, to ensure that engagement among minorities and with the larger public sphere is meaningful, builds trust, and fosters social cohesion and integration.

(18) The Committee expresses its concern about reports of obstacles experienced by religious authorities of certain minority groups seeking their registration as legal entities under the Law on Churches and Religious Communities. It is also concerned about reports of discrimination in the restitution of property to certain minority religious groups whose assets were confiscated (arts. 2 (c) and 5 (d) (v) and (vii)).

The Committee recalls the possible intersectionality of racial and religious discrimination and urges the State party to take all necessary measures to ensure the equal right to freedom of religion for all, without preferential treatment, including through a review of laws or practices that perpetuate an intermingling of the secular and religious spheres, which may impede the full implementation of the Convention. It also encourages the State party to ensure that the process of property restitution is carried out without further delay and without discrimination.

(19) The Committee expresses its concern about the problem of legally invisible persons, who are according to reports, mostly Roma, Ashkali and Egyptian, and it is also concerned about the enduring vulnerability faced by returnees and internally displaced persons. In particular, it is concerned that members of the Roma minority face difficulties and discrimination due to their lack of personal identification documents and birth certificates which puts them at risk of statelessness and affects the exercise of their rights (art.. 5 (b) and (d) (i), (ii), and (iii)).

The Committee urges the State party to carry out the necessary measures, including legal amendments, to ensure that all persons lacking the required personal documents have access to registration and the necessary documents to exercise their rights. In particular, it recommends that the State party carry out campaigns to increase awareness of the importance of registration among the Roma, Ashkali and Egyptian population. In addition, the Committee recommends that the State party increase the safeguards against statelessness, and that it ratify the 1961 Convention on the Reduction of Statelessness.

(20) The Committee notes with concern the very few complaints of racial discrimination taken up by the Ombudsman's Office as well as the very few court decisions issued on any complaint (arts. 5 and 6).

Bearing in mind its general recommendation No. 31 (2005), on the prevention of racial discrimination in the administration and functioning of the criminal justice system the Committee recommends that the State party ensure that the absence of any such complaints does not result from a lack of awareness by victims of their rights or lack of confidence in the police and judicial authorities, or lack of attention or sensitivity by the authorities to cases of racial discrimination. The Committee requests that the State party include in its next periodic report further statistics on complaints, prosecutions and judgments relating to acts of racial or ethnic discrimination, and examples of actual cases illustrating these statistical data.

(21) The Committee welcomes efforts by the State party to conduct human rights training among children and youth and to civil servants, but remains concerned that training in human rights and in interethnic harmony and tolerance remains insufficient and that a negative perception and stereotyping of minorities persists among the general public and judicial and administrative staff (art. 7).

The Committee encourages the State party to strengthen its human rights training and continue programmes that foster intercultural dialogue, and emphasize tolerance and understanding with respect to the culture and history of different minority groups, especially among judiciary and law enforcement officials, including police and prison administration personnel, and among lawyers and teachers. The Committee further encourages the State party to continue implementing such programmes in public education, in political fora, and in the media, with a view towards fostering greater respect for, and appreciation of the role of multicultural diversity in the State party.

(22) The Committee welcomes the State party's expressed commitment to its international obligations to fully and effectively cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and notes with appreciation the developments on investigations and prosecutions, but notes with concern that the fugitives Ratko Mladić and Goran Hadžić remain at large.

Taking into account that combating impunity is essential for coming to terms with the past and as a starting point for reparation and reconciliation of the victims and communities concerned, the Committee encourages the State party to increase its efforts to search, detain and transfer Ratko Mladić and Goran Hadžić, accused of

genocide and crimes against humanity to the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to ensure that all indicted persons for complicity in and perpetrating of crimes against humanity are brought to justice in adequate penal proceedings, including after the closure of the ICTY. The Committee also encourages the State party in its cooperation with the ICTY, granting full access to requested documents and potential witnesses and to ensure that witnesses are effectively protected throughout all stages of the proceedings and afterwards.

(23) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(24) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(25) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

(26) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(27) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(28) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(29) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 15, 19, and 22 above.

(30) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 13, 14, 17, and 21, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(31) The Committee recommends that the State party submit its second and fourth periodic reports in a single document, due on 4 January 2014 taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

57. **Spain**

(1) The Committee on the Elimination of Racial Discrimination considered the eighteenth to twentieth periodic reports of Spain, submitted in a single document (CERD/C/ESP/18-20) at its 2065th and 2066th meetings (CERD/C/SR.2065 and 2066), held on 23 and 24 February 2011. At its 2085th meeting (CERD/C/SR.2085), held on 9 March 2011, the Committee adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the periodic reports submitted in a single document by the State party and the supplementary information provided orally by the delegation. It appreciates that the State party sent a high-level delegation as well as the efforts made by the delegation to answer most of the questions put by Committee members.

(3) The Committee welcomes the contribution made by the State party's Ombudsman to the Committee's work, as well as the active engagement of and contributions from non-governmental organizations.

B. Positive aspects

(4) The Committee welcomes the implementation of the Human Rights Plan 2008–2012, which sets out numerous specific commitments, including the implementation and evaluation of the Strategic Plan for Citizenship and Integration and the adoption of a comprehensive national strategy to combat racism and xenophobia.

(5) The Committee welcomes the information supplied by the delegation regarding the adoption on first reading by the Council of Ministers on 7 January 2011 of a draft comprehensive bill on equal treatment and non-discrimination, which includes the concepts of direct and indirect discrimination, discrimination by association or erroneous discrimination, and multiple discrimination.

(6) The Committee welcomes the legislative measures introduced by the State party into its legal framework for combating racial discrimination, including:

(a) Act No. 27/2005 on the promotion of education and a culture of peace;

(b) Organization Act No. 2/2006 on education, which establishes respect for diversity as a guiding principle for all basic education;

(c) Organization Act No. 3/2007 on genuine gender equality;

(d) Act No. 19/2007 on violence, racism, xenophobia and intolerance in sport.

(7) The Committee welcomes the implementation of various measures that have contributed to improving the social, economic and cultural situation of the Gypsy community, including the adoption of the Plan of Action for the Development of the Gypsy Population (2010–2012), the creation of the Gypsy Consultative Council in 2006, the implementation in 2006 of the *Acceder* programme on access to the labour market, and the establishment of the Gypsy Cultural Institute.

C. Concerns and recommendations

(8) The Committee takes note of the statistical data provided by the delegation on the total and foreign populations in Spain. However, the Committee regrets that the State party has not provided statistical data on the ethnic and racial composition of its population, that it continues to maintain that the collection of this type of statistical data contributes to discrimination, and that it considers these data to be subject to special protection under article 7 of Organization Act No. 15/1999 (art. 1).

The Committee reiterates its recommendation to the State party regarding the collection of statistical information on the ethnic and racial composition of its population and urges the State party to carry out a census of its population in light of the Committee's general recommendation No. 24 (1999) concerning article 1 of the Convention and general recommendation No. 30 (2004) on discrimination against non-citizens, and in accordance with the guidelines on the treaty-specific document to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/2007/1). The Committee reminds the State party that having this type of information is vital in order to identify and learn more about the ethnic and racial groups present in its territory, monitor forms of discrimination and possible trends in discrimination against those groups, and subsequently take measures to address such discrimination.

(9) The Committee takes note of the establishment in 2009 of the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin to combat discrimination in the State party. The Committee also notes the creation, within the framework of the Council, of a regional network of support centres for victims of discrimination. However, the Committee is concerned about reports that the Council lacks the necessary autonomy and independence to carry out its work efficiently, that it does not have an adequate budget and that it is barely known to the general population (art. 2).

The Committee recommends that the State party take the necessary measures to ensure that the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin has the required independence as set out in the European Commission against Racism and Intolerance (ECRI) general policy recommendations Nos. 2 and 7 for this type of body. It also recommends that the State party undertake campaigns to increase public awareness of the existence of the Council.

(10) The Committee is concerned about the information received on identity checks and police raids carried out on the basis of ethnic and racial profiling in public places and neighbourhoods with high concentrations of foreigners, with the aim of arresting anyone in an irregular situation in the State party (arts. 2, 5 and 7).

Recalling its general recommendation No. 31 (2005), the Committee urges the State party to take effective measures to eradicate the practice of identity checks based on ethnic or racial profiling. Furthermore, the Committee recommends that the State party consider amending those provisions of Circular No. 1/2010 of the General Commissariat for Immigration and Borders and the relevant national legislation which allow interpretations that, in practice, can lead to indiscriminate detention and the restriction of the rights of foreign citizens in Spain. The Committee also reminds the State party that, in light of its general recommendation No. 13 (1993), law enforcement officials should receive intensive training in human rights in order to guarantee that in the course of their duties they respect and protect the fundamental rights of all persons without discrimination on the basis of race, colour or ethnic or national origin.

(11) The Committee is concerned that there are no official figures on incidents of racism or xenophobia, or on the number of complaints, prosecutions, convictions or sentences for racially motivated crimes, as defined in article 22, paragraph 4, of the State party's Criminal Code, or on the reparation granted to victims (arts. 2 and 6).

In light of its general recommendation No. 31 (2005), the Committee reminds the State party that the absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination should not be viewed as necessarily positive, since it could also be an indicator of, inter alia, the victims' fear of social censure or reprisals, the lack of trust in the police and judicial authorities, or even that the authorities are insufficiently alert to or aware of complaints of acts of discrimination. The Committee recommends that the State party:

(a) Embark on regular and public collection of information on acts of racial discrimination from police, judicial and prison authorities and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data;

(b) Include, in its next periodic report, comprehensive details on the number of complaints, prosecutions, convictions and sentences and on the reparation granted to victims.

(12) The Committee is concerned that the provisions in article 31 bis of Organization Act No. 2/2009 (the Aliens Act), regarding foreign women who are victims of gender-based violence, may dissuade foreign women in an irregular situation from filing complaints about gender-based violence for fear of being expelled from the territory of the State party if the courts do not find the accused guilty of gender-based violence (art. 2).

The Committee recommends that the State party review, in light of the Convention, the legislative provisions in Organization Act No. 2/2009 (the Aliens Act) regarding foreign women who are victims of gender-based violence, as these provisions discriminate against foreign women in an irregular situation who are victims of gender-based violence.

(13) The Committee is concerned about the situation of migrants who, after spending the 60 days stipulated by law in a migrant holding centre, are released pending expulsion proceedings, which makes them more vulnerable to abuse and discrimination. The Committee is also concerned by reports that there are no regulations governing the way in which migrant holding centres operate. As a result, the living conditions and access to information, legal aid and medical care, as well as access to such centres by non-governmental organizations offering support to inmates, vary from one centre to the next (arts. 2, 5 and 6).

Recalling its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee reiterates its view that States parties should ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin. It recommends that the State party:

(a) Take the necessary measures to guarantee the protection of the basic rights of migrants who have left a migrant holding centre pending expulsion proceedings, and to guarantee their judicial protection and access to effective remedies, including the right to appeal against an expulsion order;

(b) Draw up regulations for the migrant holding centres, in order to harmonize the way in which they operate and thus ensure that persons detained in such centres have access to adequate living conditions, information, legal aid and

medical care, and also that non-governmental organizations offering support have access to such centres.

(14) The Committee is concerned by ongoing media coverage that spreads racist stereotypes and prejudice against certain groups of migrants, such as North Africans, Latin Americans and Muslims in the State party (arts. 4 and 7).

The Committee urges the State party to continue to implement its comprehensive national strategy to combat racism and xenophobia, to closely monitor any trends that might encourage racist and xenophobic behaviour and to combat the negative impact of such trends. In light of the National Plan of Spain for the Alliance of Civilizations and in accordance with articles 4 and 7 of the Convention, the Committee urges the State party to promote responsible use of the media in order to combat hate speech and racial discrimination, and to promote general awareness of diversity at all levels of education.

(15) The Committee is concerned by reports that, in some regions of Spain, there are "ghetto" schools for migrant and Gypsy children, in spite of the fact that Organization Act No. 2/2006 on education provides for mechanisms to facilitate an appropriate and even distribution of students (arts. 4 and 5).

The Committee recommends that the State party review the admission criteria and methodology used in public and private schools and that it take measures to effectively ensure an even distribution of pupils between schools. The Committee requests the State party to provide disaggregated statistical data in its next periodic report on the number of migrant, Gypsy and Spanish children enrolled in school.

(16) The Committee notes with satisfaction that the State party is continuing to adopt measures to improve the general situation of Gypsies. However, it is concerned by the difficulties still facing many of them, and especially Gypsy women and children, with regard to employment, housing and education. It is also concerned by the persistent discrimination against the Gypsy community in daily life (arts. 5 and 7).

The Committee recommends that the State party continue its efforts to improve the situation of Gypsies and to integrate them into Spanish society and, in particular, that it adopt measures to improve the situation of Gypsy women and girls. The Committee also recommends that, in light of its general recommendation No. 27, the State party take the necessary measures to promote tolerance and overcome prejudice and negative stereotypes, in order to avoid any form of discrimination against members of the Gypsy community.

(17) The Committee welcomes the agreements on assisting and repatriating unaccompanied minors which the State party has signed with Romania and Senegal. However, the Committee is concerned about the use of radiological tests to evaluate bone development as a means of determining the age of unaccompanied minors on Spanish territory, as the wide margin of error could lead to some children being classed as adults, and therefore denied the protection to which minors are entitled (art. 6).

The Committee urges the State party, in order to ensure that unaccompanied minors are not classed as adults and that they enjoy the protection to which children are entitled, to consider different methods of determining the age of children, and to invest in the introduction of reliable and up-to-date tests which are not harmful to the physical integrity of minors.

(18) Bearing in mind the indivisible nature of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties to which it is not already a party, particularly those whose provisions have a direct bearing on

the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(19) In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when the State party incorporates the Convention into its domestic legal order, it 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, bearing in mind 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 Declaration and Programme of Action at the national level.

(20) The Committee recommends that the State party prepare and implement, including by providing sufficient media coverage, a programme of activities to mark 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (resolution 64/169 of 18 December 2009).

(21) The Committee recommends that the State party continue holding consultations and broadening the dialogue with civil society organizations working in the area of human rights protection, in particular in the field of combating racial discrimination, when preparing its next periodic report.

(22) The Committee recommends that the State party's reports be made available to the public at the time of their submission and that the concluding observations of the Committee with respect to these reports be publicized in the official and other commonly used languages, as appropriate.

(23) In accordance with the provisions of article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 9, 14 and 17 above.

(24) The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 12 and 13 and requests the State party to provide detailed information in its next periodic report on concrete and appropriate measures taken to effectively implement these recommendations.

(25) The Committee recommends that the State party submit its twenty-first to twenty-third periodic reports in a single document by 4 January 2014 and notes that, in preparing those reports, it should follow the guidelines for the Committee-specific document adopted by the Committee on the Elimination of Racial Discrimination at its seventy-first session (CERD/C/2007/1) and should address all the points raised in the present concluding observations. The Committee urges the State party to observe the 40-page limit for treaty-specific reports and the 60–80 page limit for the common core document (see the harmonized guidelines contained in paragraph 19 of document HRI/GEN.2/Rev.6).

58. **Ukraine**

(1) The Committee considered the nineteenth to twenty-first periodic reports of Ukraine (CERD/C/UKR/19-21), submitted in one document, at its 2104th and 2105th meetings (CERD/C/SR.2104 and CERD/C/SR.2105), held on 17 and 18 August 2011. At its 2120th meeting (CERD/C/SR 2120), held on 29 August 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the timely submission of the consolidated report by Ukraine in general conformity with the Committee's reporting guidelines

(CERD/C/2007/1). It also appreciates the wealth of detail in the report. The delegation's candid answers to the list of themes by the Country Rapporteur and to the questions by Committee members enabled a constructive dialogue attesting to a need for further legislative and administrative reforms to effectively integrate ethnic minorities and counter racial discrimination.

B. Positive aspects

(3) The Committee notes with interest the State party's resolve during the period under review to strengthen the legal framework and remedy duplication and lack of clarity among various institutions and programmes aimed at the integration and protection of ethnic groups, including:

(a) Amendments to articles 115, 121, 127 and 161 of the Criminal Code concerning liability for offences motivated by racial, ethnic and religious intolerance, and the recognition of racial, ethnic and religious motives as aggravating circumstances for a range of criminal offences including murder and grievous bodily harm;

(b) The enactment of the Law on Refugees, Persons in Need of Complementary and Temporary Protection No. 7252, adopted by the Parliament on 8 July 2011, which strengthens the quality of refugee status determination procedures, the screening of asylum claims and temporary settlement, and medical services to refugees and asylum seekers, including the most unprotected applicants;

(c) The migration policy, adopted by presidential decree No. 622/2011 on 30 May 2011, which contains significant provisions that protect the human rights of migrants;

(d) The establishment of the new State Migration Service in December 2010 with a consolidated mandate aimed at enhancing the protection of migrants' rights, including those of unaccompanied minors, and streamlining decision-making on migration issues;

(e) The adoption of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination for the Period 2010-2012, which entered into force with Cabinet of Ministers' instruction No. 11273/110/1-08 of 24 February 2010 and the activities, albeit currently on hold, of the Interdepartmental Working Group on combating xenophobia and ethnic and racial intolerance;

(f) The establishment of the Unit within the Ministry of the Interior to combat cybercrime through enhancing cooperation to combat the operation of offshore internet sites spreading intolerance;

(g) Administrative reforms including the adoption of the Law on the Cabinet of Ministers and the consolidation of local bodies to improve the governance and coordination of responses to racial discrimination;

(h) Activities including discussions, exhibitions and production of information materials to raise awareness about the Roma Holocaust.

C. Concerns and recommendations

(4) The Committee notes with concern the information that the State Committee on Ethnic and Religious Affairs, the Inter-Departmental Working Group against Xenophobia and Ethnic and Racial Intolerance as well as the separate departments of the Ministry of the Interior for investigating and combating ethnic crimes ceased to be operational during 2010 despite the fact that administrative reforms were still pending (art. 2, para. 1 (d)).

The Committee urges the State party to continue to consider racial discrimination as a priority regardless of the outcomes of pending administrative reforms. Given the importance of safeguarding the independence, visibility and effectiveness of

institutional mechanisms to counter racial discrimination, such as the planned new Central Authority for National and Religious Affairs, the Committee recommends that they be established and their mandates defined in conjunction with the new framework anti-discrimination legislation. It also recommends that the State party re-activate the institutions which have ceased to be operational, particularly the Inter-Departmental Working Group against Xenophobia and Ethnic and Racial Intolerance as well as the mechanisms for investigating and combating ethnic crimes.

(5) The Committee notes with concern that, despite its recommendation of 2006 that the State party adopt new framework anti-discrimination legislation, the draft Anti-Discrimination Act was prepared only in 2011 and its further development and adoption is contingent on the drafting and approval of the new Inter-Departmental Strategy against Discrimination and Intolerance mandated by the President of Ukraine in May 2011 (arts. 1, para. 1, and 2, para. 1)(d)).

The Committee urges the State party to accelerate the adoption of a comprehensive anti-discrimination act to stipulate, inter alia, the definition of direct and indirect as well as de facto and de jure discrimination, together with structural discrimination, liability for natural and legal persons extending to both public authorities and private persons, remedies to victims of racial discrimination and the institutional mechanisms necessary to guarantee the implementation of the provisions of the Act in a holistic manner.

(6) The Committee notes with regret the absence of information on the effectiveness of the Office of the Parliamentary Commissioner for Human Rights.

The Committee recommends that the State party include in its next periodic report detailed information on the effective functioning of the Parliamentary Commissioner for Human Rights, a national human rights institution set up in accordance with the Paris Principles, mandate it with specific competence in the field of racial discrimination, in particular to process complaints and take measures in response to the concerns of victims of racial discrimination, and ensure their effective access to the Commissioner's Office at the regional, district and municipal levels.

(7) The Committee remains concerned also about the lack of updated statistical data disaggregated by ethnicity, gender and age on the victims of racial discrimination and of accurate data on the occurrence of hate speech and hate crimes, the number and nature of cases brought against perpetrators, convictions obtained, sentences imposed and compensation awarded (art. 2, para. 1).

The Committee recommends that the State party develop and apply appropriate methodologies for the collection of relevant information about victims of racial discrimination including on mother tongues, languages commonly spoken, or other indicators of ethnic diversity on the basis of self-identification of persons and groups, together with the number and nature of cases brought against perpetrators of racial discrimination, convictions obtained and sentences imposed, in accordance with the specific guidelines (CERD/C/2007/1).

(8) The Committee expresses its concern at the absence of information on the specific legal and policy measures to prohibit and condemn "racial segregation and apartheid" in accordance with article 3 of the Convention.

In light of general recommendation No. 19 (1995) on racial segregation, the Committee recommends that the State party address problems of ethnically related social exclusion and segregation through the adoption of necessary legislative and policy measures.

(9) The Committee remains concerned that while in practice foreign nationals and stateless persons legally present in Ukraine enjoy the same rights and freedoms and have the same obligations as Ukrainian citizens, subject to restrictions provided by law, many legal provisions still do not guarantee the equal protection of rights and freedom from discrimination to non-citizens (art. 4 (a)).

The Committee recommends that the State party guarantee equal rights and freedom from discrimination, including under article 161 of the Criminal Code, to all persons subject to its jurisdiction with the aim of avoiding ambiguity in ensuring protection to all persons, in accordance with general recommendation No. 30 (2004) on non-citizens.

(10) The Committee expresses its concern at the dismissive attitudes and reluctance to accept the racist or discriminatory nature of hate crimes by the law enforcement authorities as well as the repeated incidents of ethnic and racial profiling by the police, resulting in a majority of the reported hate crimes remaining unanswered (art. 4 (a)).

In light of its general recommendation No. 31 (2005), the Committee urges that the State party take immediate measures to effectively investigate reported hate crimes and ensure that the police do not engage in racial or ethnic profiling when conducting document checks on foreigners or members of "visible minorities". To that end, the Committee recommends that the State party investigate and bring to justice perpetrators of such acts regardless of their official status, and continue to expand training on human rights issues for staff of the Ministry of the Interior, State Migration Service, State Border Guard Service and the police.

(11) In light of the resurgence of activities by extremist organizations such as "Social National Assembly" and "Patriots of Ukraine", the Committee notes with concern the repeated attacks against foreigners and members of "visible minorities" by young extremists and the information contained in paragraph 85 of the State party's report to the effect that the extreme right-wing movements are "in some respects beyond the Ministry of the Interior's legal competence" (art. (4) (b)).

The Committee strongly recommends that the State party closely monitor the activities of extremist organizations, and adopt legal and policy measures with the aim of preventing their registration and disbanding their activities, as necessary, and ensuring the protection of foreigners and members of "visible minorities" against all acts of violence.

(12) The Committee is also concerned about the reported growth in outreach activities by extremist organizations expanding their propaganda and using electronic social networks to address the youth of the country (art. 4 (a)).

The Committee further recommends that the State party resolutely counter the activities of extremist organizations including on the internet and adopt educational and awareness-raising measures to prevent and discourage the involvement of young sympathizers in extremist organizations and movements.

(13) The Committee observes that the effectiveness of article 161 of the Criminal Code is contingent on balancing protection from discrimination and violence with the right to freedom of opinion and expression under article 4 of the Convention.

In light of general recommendation No. 15 (1993) on the implementation of article 4 of the Convention, and drawing attention to general comment No. 34 (2011) of the Human Rights Committee on the right to freedom of opinion and expression, the Committee encourages the State party to modify article 161 of the Criminal Code in order to strike a balance between the protection of both the right to freedom from discrimination, according to article 4 of the Convention, including against hate speech and the right to freedom of expression.

(14) The Committee is alarmed by the limited effectiveness of legislative and policy measures addressing the issues relating to education of Roma and notes with concern the limited availability of educational materials for education in, and on, Roma language and culture. The Committee is further concerned by reports of the enrolment of Roma children in special classes and the failure to consult their parents (art. 5 (e) (v)).

The Committee recommends that the State party revise its legislation, policies and programmes to provide education to Roma children, and on Roma language and culture, in consultation with parents and concerned Roma organizations, and employ mediators as necessary, ensuring that schools are sensitive to their needs while preventing enrolment of Roma children in special classes where there are no objective grounds for assigning them thereto.

(15) While noting the progress in issuing the necessary identification papers to Roma without relevant identification documents including birth certificates, the Committee remains concerned that, while over 2,000 Roma had been documented, approximately 1,700 persons still remain without such documents especially in light of the State party's argument that the lack of evidence of ethnicity on the part of the State party is a major factor in limiting the production of identification documents (art. 5 (a) and (e)).

The Committee urges that the State party issue as a matter of priority the necessary identification documents to all Roma in order to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services.

(16) The Committee notes with concern the absence of legislation on indigenous peoples implementing the guarantees to indigenous peoples and national minorities contained in articles 11 and 92 of the Constitution (art. 2, para. 2).

The Committee urges the State party to adopt legislation to protect indigenous peoples and guarantee their economic, cultural and social development, and to consider ratifying International Labour Organization (ILO) Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

(17) The Committee continues to be strongly concerned by information alleging difficulties experienced by Crimean Tatars who have returned to Ukraine, including lack of access to land, employment opportunities, insufficient possibilities for studying their mother tongue, hate speech against them, lack of political representation, and access to justice. The question of restitution and compensation for the loss of over 80,000 private dwellings and approximately 34,000 hectares of farmland upon deportation remains of serious concern, particularly as 86 per cent of the Crimean Tatars living in rural areas did not have the right to participate in the process of agricultural land restitution as they had not worked for State enterprises. The Committee is also interested in following up the situation regarding the enjoyment of human rights by members of other ethnic groups deported in 1944 (art. 5 (b), (d) (v) and (e) (i), (iii) and (v)).

The Committee recommends that the State party ensure the restoration of political, social and economic rights of Tatars in the Crimea, in particular the restitution of property including land or the compensation for its loss under the Civil Code, or through a special law to be adopted to that end. The Committee further recommends that the State party provide updated information in its next periodic report on the enjoyment of human rights by members of other formerly deported ethnic groups.

(18) The Committee also notes with concern various reports alleging that the communities of Krymchaks and Karaites are on the verge of extinction (art. 2, para. 2).

The Committee urges that the State party adopt as a matter of priority special measures to enable the preservation of the language, culture, religious specificities and

traditions of Krymchaks and Karaites, in accordance with the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures.

(19) The Committee notes with concern that the status of a community of Ukrainian citizens, who consider themselves to be Ruthenians, is not clear and that there is a reported absence of dialogue between them and the State party.

The Committee recommends that the State party respect the right of persons and peoples to self-identification and consider the issue of their status in consultation with representatives of Ruthenians in order to recognize all minorities which claim to exist in the State party.

(20) Despite the formation of a new State Migration Service in December 2010 and the adoption of the new migration policy in May 2011 aimed at facilitation, inter alia, of processing of about 2,000 asylum claims per year, the Committee notes the need for well-founded decisions in the refugee status determination procedure, for asylum seekers to remain documented throughout the asylum procedure, and for children of asylum-seekers and stateless persons born in Ukraine to be registered and receive birth certificates (art. 5 (a) and (b)).

The Committee recommends that the State party: (a) ensure well-founded decisions in the refugee status determination procedure, and fully ensure procedural safeguards and a proper assessment of asylum claims for all persons in need of international protection; (b) ensure that all asylum-seekers remain documented throughout the asylum procedure, including the appeals stage, so that they do not face the risk of detention or refoulement while pursuing their asylum claims, and that adequate resources are available for the provision of interpretation to them, particularly in the courts and in places of detention so that they can enjoy meaningful access to justice; (c) adopt legislative measures to ensure birth registration and the issuance of birth certificates to children of asylum-seekers and stateless persons born in Ukraine; and (d) consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

(21) The Committee notes with concern that, while a number of projects and studies were taken to provide housing to refugees and asylum seekers, including in Odessa Oblast, the number of refugee and asylum centres and the funding thereof remain inadequate (art. 5 (e) iii)).

The Committee recommends that the State party further improve conditions for the reception of refugees and asylum-seekers by opening new temporary accommodation centres, particularly in Kyiv and Kharkiv, ensuring transparent criteria for admission to centres, and providing assistance to those who cannot be accommodated therein.

(22) While noting that the application of the Criminal Code remains central to combating racial discrimination, the Committee expresses concern at the lack of instruments of civil and administrative liability, including sanctions, which are also essential for enhancing the prevention of racial discrimination and effective recourse to justice by its victims (art. 6).

The Committee recommends that the State party amend its Civil Code and Code of Administrative Offences to establish civil and administrative liability for racial discrimination, including the hateful opinions spread by the media, as well as to guarantee remedies, including compensation to victims.

(23) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the

Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

(24) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(25) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session in its resolution 64/169 of 18 December 2009.

(26) The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the implementation of the present concluding observations and the preparation of the next periodic report.

(27) The Committee encourages the State party to raise awareness about the communications procedure under article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

(28) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(29) Noting that the State party submitted its core document (HRI/CORE/1/Add.63/Rev.1) in 1998, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth Inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3 and HRI/MC/2006/3/Corr.1).

(30) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 5, 9 and 15 above.

(31) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 14, 16 and 17 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(32) The Committee recommends that the State party submit its twenty-second and twenty-third periodic reports in a single document by 6 April 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (HRI/GEN.2/Rev.6, chap. I, para. 19).

59. **United Kingdom**

(1) The Committee considered the eighteenth to twentieth periodic reports of the United Kingdom and Northern Ireland, submitted in one document (CERD/C/IRL/18-20), at its 2112th and 2113th meetings (CERD/C/SR.2112 and CERD/C/SR.2113), held on 23 and 24 August 2011. At its 2115th meeting (CERD/C/SR.2115), held on 1 September 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the detailed, though somewhat delayed, report submitted by the State party, and expresses appreciation for the frank and constructive oral responses provided by the delegation during the consideration of the report.

(3) The Committee commends the inclusion by the State party, in its periodic report, of new and updated information on the implementation of the Convention in overseas territories under its administration.

(4) The Committee also notes with appreciation the input to its proceedings by the Equality and Human Rights Commission (EHRC), the Human Rights Commissions of Scotland, Wales and Northern Ireland and various non-governmental organizations (NGOs) that were consulted in the preparation of the report.

B. Positive aspects

(5) The Committee welcomes the notable efforts made by the State party to tackle racial discrimination and inequality and acknowledges that it has made important progress in this regard.

(6) The Committee welcomes the enactment of the Equality Act 2010 as a landmark improvement in anti-discrimination legislation;

(7) The Committee notes with appreciation the establishment of the Equality and Human Rights Commission under the Equality Act 2006; and

(8) The Committee also notes with appreciation the adoption of the Racial and Religious Hatred Act 2006 and the launch of the Cross-Government Hate Crime Action Plan (HCAP) on 14 September 2009.

C. Concerns and recommendations

(9) While the underlying causes of the riots and acts of vandalism that took place in the State party in August 2011 are yet to be fully ascertained, the Committee notes that there are racial undertones to the situation which should not be ignored. The Committee regrets that some of the State party's policy responses to the riots may disproportionately impact groups from poor and minority ethnic backgrounds, in particular reported plans to remove the welfare benefits of those convicted but not jailed for riot-related offences, and to evict families of those involved in the riots from social housing. Such measures have the potential to worsen race relations and inequalities in the State party (arts. 2, 4 and 6).

The Committee recommends that the State party thoroughly investigate the underlying causes of the riots and acts of vandalism, and that it provide the Committee with information on the outcome of its investigations as soon as possible. The Committee urges the State party to ensure that in the process of investigation and prosecution of the riot-related cases, the rule of law is strictly adhered to and applied with due process in an even-handed way. The State party should ensure that any policy responses are forward-looking and promote ethnic equality and cohesion in the State party.

(10) The Committee notes that the State party maintains its position that there is no obligation for States parties to make the Convention as such part of their domestic legal order and that the law and practice of the State party fully respect and implement all the provisions of the Convention. The Committee reiterates its continuing concern that the State party's courts may not give full legal effect to the provisions of the Convention unless it is expressly incorporated into its domestic law or the State party adopts necessary provisions in its legislation (arts. 2 and 6).

The Committee requests the State party to reconsider its position so that the Convention can more readily be invoked in the domestic courts of the State party.

(11) The Committee is concerned at reports of an increase in virulent attacks on, and negative portrayal of, ethnic minorities, immigrants, asylum seekers and refugees by the media in the State party. The Committee accordingly regrets that the State party continues to maintain its restrictive interpretation of the provisions of article 4 of the Convention which the Committee has determined as being of a mandatory character in its general recommendation No. 15 (1993) on article 4 of the Convention, which, inter alia, deals with organized violence based on ethnic origin (arts. 2, 4 and 6).

The Committee notes the State party's own recognition that the rights to freedom of expression and opinion are not absolute rights, and recommends that the State party withdraw its interpretative declaration on article 4 in the light of the continuing virulent statements in the media that may adversely affect racial harmony and increase racial discrimination in the State party. The Committee recommends that the State party closely monitor the media with a view to combating prejudices and negative stereotypes, the unchecked expression of which may result in racial discrimination or incitement to racial hatred. The State party should adopt all necessary measures to combat racist media coverage and ensure that such cases are thoroughly investigated and, where appropriate sanctions are imposed.

(12) The Committee is deeply concerned at the State party's position that the Convention does not apply to the British Indian Ocean Territory (BIOT). The Committee further regrets that the BIOT (Immigration) Order 2004 not only bans Chagossians (Ilois) from entering Diego Garcia but also bans them from entering the outlying islands located over 100 miles away, on the grounds of national security (arts. 2 and 5(d)(i)).

The Committee reminds the State party that it has an obligation to ensure that the Convention is applicable in all territories under its control. In this regard, the Committee urges the State party to include information on the implementation of the Convention in the British Indian Ocean Territory in its next periodic report.

The Committee recommends that all discriminatory restrictions on Chagossians (Ilois) from entering Diego Garcia or other Islands on the BIOT be withdrawn.

(13) While noting with appreciation the coming into force of the Equality Act 2010, the Committee is deeply concerned that the austerity measures adopted in response to the current economic downturn, and the so-called "Red Tape" challenge, including scrutiny of measures envisaged under the Equality Act to prune those deemed "bureaucratic or burdensome", threaten to dilute or reverse the State party's achievements in the fight against racial discrimination and inequality. In this context, the Committee recalls its general recommendation No. 33 (2009) on Follow-Up to the Durban Review Conference, and reiterates that responses to financial and economic crises should not lead to a situation which would potentially give rise to racial discrimination against foreigners, immigrants and persons belonging to ethnic minorities (arts. 2 and 5).

The Committee recommends that the State party should implement all of the provisions of the Equality Act and ensure that there is no regression from the current

levels of protection. Notwithstanding the economic downturn, the State party should ensure that any austerity measures do not exacerbate the problem of racial discrimination and inequality. Impact assessments are necessary before adopting such measures to ensure that they are not differentially targeted or discriminatory to those vulnerable to racial discrimination.

(14) The Committee notes the Localism Bill currently before Parliament. The Committee is concerned about the enhanced decision-making powers devolved to the local level, including with regard to allocation of resources for special measures in the field of education and some planning measures relevant to minority ethnic groups, and their potential negative impact on groups vulnerable to racial discrimination (arts. 2 and 5).

The Committee recommends that the State party ensure that procedures for enhanced local decision-making contribute to addressing racial discrimination, and that groups vulnerable to racial discrimination are involved in their design, implementation and monitoring. The Committee also recommends that every effort be made to ensure consistency in measures to support implementation of the Convention throughout the State party, including by its various local authorities.

(15) The Committee expresses particular concern at the proposed budget cuts to EHRC, which may have negative effects on the execution of the Commission's mandate. The Committee is further concerned at reports that the proposed Public Bodies bill would empower the responsible Minister to modify the core functions and/or powers of EHRC. The Committee also takes note of reports of the current lack of independence of the Police Ombudsman for Northern Ireland (art. 2).

The Committee recommends that any spending cuts and proposed legislative amendments to the mandate of EHRC should ensure that EHRC operates independently and effectively in line with the Paris Principles (annexed to General Assembly resolution 48/134). Furthermore, the State party should ensure that the Office of the Police Ombudsman in Northern Ireland is able to undertake effective, efficient and transparent investigations in cases of racial discrimination.

(16) The Committee expresses deep concern that the provisions of section 19D of the earlier Race Relations Act of 2000, which permit public officials to discriminate on grounds of nationality, ethnic and national origin, provided that it is authorized by a Minister, have been replicated in the Equality Act 2010. The Committee is further concerned at reports that a Ministerial authorization came into force on 10 February 2011 which would allow the UK Border Agency (UKBA) to discriminate among nationalities in granting visas and when carrying out checks at airports and ports and points of entry of the State party (arts. 1 and 2).

The Committee recommends that the State party remove the exceptions based on ethnic and national origin to the exercise of immigration functions as well as the discretionary powers granted to the UK Border Agency (UKBA) to discriminate at border posts among those entering the territory of the State party.

(17) The Committee was informed by the State party that its Equality Strategy is moving away from treating inequality as principally concerning race and towards focusing on transparent frameworks to create opportunities for all. While welcoming an integrated approach to equality, the Committee notes that the Strategy pays little attention to some important factors including race. In particular, the absence of a race equality strategy in the State Party is a matter for concern (art. 2).

The Committee recommends that the State party develop and adopt a detailed action plan, with targets and monitoring procedures, in consultation with minority and

ethnic groups, for tackling race inequality as an integral part of the Equality Strategy, or separately provide an action plan for an effective race equality strategy.

(18) The Committee regrets the increased use of "stops and searches" by the police which disproportionately affect members of minority ethnic groups, particularly persons of Asian and African descent. The Committee further regrets reports that the State party has discontinued the issuance of reports for stops unless they lead to a search, and has adopted a policy to issue only receipts for stops and searches instead of a full record. The Committee is concerned that these measures may not only encourage racial and ethnic stereotyping by police officers but may also encourage impunity and fail to promote accountability in the police service for possible abuses (arts. 2 and 5).

In light of general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee urges the State party to review the impact of "stop and search" powers on ethnic minority groups under various pieces of legislation in the State party. It recommends that the State party ensure that all stops are properly recorded, whether or not leading to searches, and that a copy of the record is provided to the person concerned for all such incidents in order to safeguard the rights of those subject to these laws and to check possible abuse. The Committee requests the State party to provide in its next periodic report detailed statistical data disaggregated by ethnicity and community origin on the use of stop and search powers and their effectiveness in crime prevention.

(19) The Committee regrets that the Equality Act 2010 does not apply to Northern Ireland. The Committee further regrets that Northern Ireland does not have a Bill of Rights notwithstanding the provisions of the Belfast (Good Friday) Agreement of 1998 and recommendations from the Northern Ireland Human Rights Commission. The Committee expresses concern at the State party's response that Northern Ireland is responsible for developing its own equality legislation framework (art. 2).

The Committee wishes to remind the State party that the obligation to implement the provisions of the Convention in all parts of its territory is borne by the State party. This makes the State party the duty bearer at the international level in respect of the implementation of the Convention in all parts of its territory notwithstanding the specific governance arrangements that it may have adopted. In this regard, the Committee recommends that the State party should take immediate steps to ensure that a single equality law and a Bill of Rights are adopted in Northern Ireland or that the Equality Act 2010 is extended to Northern Ireland.

(20) While noting the State party's legislative efforts to combat sectarianism, in Northern Ireland, the Committee is concerned that this situation, given the inter-sectionality between sectarianism and racism, is kept entirely outside the framework of protections against discrimination provided by the Convention and the Durban Programme of Action. The State party recognizes that sectarianism and racism in Northern Ireland are related, and that one cannot be tackled without the other (arts. 2 and 4).

The State party is invited to examine whether the legislative and policy framework for dealing with the situation in Northern Ireland could not benefit by being underpinned by the standards, duties and actions prescribed by the Convention and the Durban Declaration and Programme of Action on inter-sectionality between ethnic origin, religion and other forms of discrimination. The State party should inform the Committee in its next report of the results of its examination of the advisability of adopting such a holistic approach towards the fight against sectarianism and racism, while also reporting directly on measures to address racial discrimination experienced by vulnerable ethnic minority groups in Northern Ireland.

(21) The Committee notes the State party's rejection of its contention that control orders used under counter-terrorism and security legislation have had a negative impact on certain groups such as Muslims and have contributed to an increase in Islamophobia. Nevertheless, the Committee welcomes the State party's efforts to review the use of control orders under counter-terrorism and security legislation, and its intention to replace them with a less intrusive and more focused system of terrorism prevention and investigation by the end of the year (arts. 2, 4 and 5(d)(i)).

The Committee recommends that the State party ensure that the new system of terrorism prevention and investigation includes safeguards against abuse and the deliberate targeting of certain ethnic and religious groups. In this regard, the Committee invites the State party to provide information on the use of the new system of terrorism prevention and investigation, as well as statistical data disaggregated by religious belief and ethnic origin concerning the individuals subjected to this new system.

(22) While welcoming the improvements in the recruitment of Black and minority ethnic groups to serve in police forces and the criminal justice system, the Committee is concerned at the persistent gap between the low representation of these groups in the police service as compared to the wider population (article 5(e) (i)).

The Committee recommends that the State party vigorously pursue its efforts to close the existing employment gap in the personnel administration of the criminal justice system and other sectors between ethnic minorities and the wider population. Bearing in mind the Committee's general recommendations No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and No. 32 (2009) on special measures, the State party should also consider adopting such special measures to ensure that employment in the criminal justice administration reflects the diversity in the State party's society.

(23) While welcoming the adoption of the national approach to racist bullying that was published in November 2010 and the introduction of respect*me*, a Scottish anti-bullying service that is partly funded by the Government, the Committee expresses concern at the increased reports of racist bullying and name-calling in the State party's schools (arts. 2 and 5(e)(v)).

The Committee encourages the State party to take all necessary steps to eliminate all racist bullying and name-calling in the State party's schools. The Committee urges the State party to introduce awareness-raising campaigns in the State party's schools with a view to changing the mindset of pupils, and to promote tolerance and respect for diversity in the education sector.

(24) In the education sector, the Committee notes that the rate of school exclusion of Black pupils is decreasing, but is still disproportionately high. The Committee also notes the relative lack of success in addressing under-achievement in schools, particularly for those groups which have been identified as most affected, notably Gypsy and Traveller children and Afro-Caribbeans (articles 2 and 5(e) (v)).

The Committee recommends that the State party adopt an intensified approach towards preventing exclusion of Black pupils and set out in detail its plans for addressing under-achievement for those groups which have been identified as most affected, notably Gypsy and Traveller children and Afro-Caribbeans.

(25) The Committee notes that the employment gap for ethnic minorities of all age groups has decreased from 17.4% to 10.9% but that the gap is greatest for 16- to 24-year-olds. The Committee acknowledges this improvement in employment rates for ethnic minorities (art. 5(e) (i)).

The Committee recommends that the State party intensify its efforts to narrow the employment gap for ethnic minorities. The Committee therefore recommends that the State party prepare a detailed delivery plan of how it will further narrow the ethnic minority employment gap in all areas and at all levels of employment.

(26) The Committee is concerned at the increase in the marriage visa age for purposes of family reunification from 18 to 21 years in November 2008, arguably in order to protect young people from entering into forced marriages. The Committee is concerned that this may lead to a situation where persons belonging to ethnic and minority backgrounds are discriminated against in the enjoyment of their right to family life, marriage and choice of spouse (arts. 2 and 5(d) (iv)).

The Committee recommends that the State party remove this increase in the marriage visa age for purposes of family reunification as it violates the rights of persons who satisfy the legal minimum age of marriage as it principally affects ethnic minorities and other persons.

(27) While noting that some efforts have been made by the State party to improve the well-being of Gypsies and Traveller communities, the Committee remains concerned that such efforts have not substantially improved their situation. The Committee thus regrets that these communities continue to register poor outcomes in the fields of health, education, housing and employment. The Committee further regrets reports of increased negative stereotypes and stigmatization of these communities within the wider society (arts. 2 and 5(d) (i), (e)(i) (iii) (iv) and (v)).

Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party should strengthen its efforts to improve the situation of Gypsies and Travellers. The State party should ensure that concrete measures are taken to improve the livelihoods of these communities by focusing on improving their access to education, health care and services, and employment and providing adequate accommodation, including transient sites, in the State party. The Committee further recommends that the State party ensure that representatives of these communities are adequately consulted before any measures that impact on their situation, such as those proposed under the Localism agenda, are implemented.

(28) The Committee deeply regrets the State party's insistence on proceeding immediately with the eviction of the Gypsy and Traveller community at Dale Farm in Essex before identifying and providing alternative culturally appropriate housing for members of these communities. The Committee further regrets the State party's failure to assist the communities in finding suitable alternative accommodation (art. 5(e) (iii)).

The Committee urges the State party to halt the intended eviction, which will disproportionately affect the lives of families and particularly women and children and create hardship. The Committee strongly recommends that the State party should provide alternative culturally appropriate accommodation to these communities before any evictions are carried out. The State party should ensure that any evictions are conducted in accordance with the law and in a manner that respects the human dignity of all individuals in this community, in conformity with international and regional human rights norms.

(29) The Committee is concerned at reports of adverse effects of operations by transnational corporations registered in the State party but conducted outside the territory of the State party that affect the rights of indigenous peoples to land, health, environment and an adequate standard of living. The Committee further regrets the introduction of a legislative bill in the State party which, if passed, will restrict the rights of foreign claimants

seeking redress in the State party's courts against such transnational corporations (arts. 2, 5 and 6).

Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee encourages the State party to take appropriate legislative and administrative measures to ensure that acts of transnational corporations registered in the State party comply with the provisions of the Convention. In this regard, the Committee recommends that the State party should ensure that no obstacles are introduced in the law that prevent the holding of such transnational corporations accountable in the State party's courts when such violations are committed outside the State party. The Committee reminds the State party to sensitize corporations registered in its territory to their social responsibilities in the places where they operate.

(30) While noting the assertion of the State party that there is no evidence in the State party of the existence of caste-based discrimination to any significant extent in the fields covered by the Convention, the Committee has received information from non-governmental organizations and from recent research studies commissioned by State party institutions that such discrimination and harassment in violation of the rights to work, to education and to the supply of goods and services does exist in the State party (art. 2).

Recalling its previous concluding observations (CERD/C/63/CO/11 para. 25) and its general recommendation No. 29 (2002) on descent, the Committee recommends that the Minister responsible in the State party invoke section 9(5)(a) of the Equality Act 2010 to provide for "caste to be an aspect of race" in order to provide remedies to victims of this form of discrimination. The Committee further requests the State party to inform the Committee of developments on this matter in its next periodic report.

(31) The Committee, recalling its previous concluding observations (CERD/C/63/CO/11 para. 28), regrets that the State party, after reviewing the possibility of making the optional declaration provided for under article 14 of the Convention, has decided not to make such a declaration (arts. 2 and 6).

The Committee urges the State party to reconsider its position not to make a declaration under article 14, which will allow individuals who are victims of racial discrimination to access the Committee.

(32) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(33) The Committee notes the action taken by the State party on follow-up to the Durban Review Conference, including the National Action Plan against Racism and related initiatives. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party continue to give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at 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, when implementing the Convention in its domestic legal order. 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.

(34) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for

People of African Descent, as proclaimed by the General Assembly in its resolution 64/169).

(35) The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(36) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(37) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 9, 18, 21 and 28 above.

(38) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 11, 13, 16, 19 and 27 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(39) The Committee recommends that the State party submit its combined twenty-first to twenty-third periodic reports in a single document by 6 April 2014, taking into account the specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see the harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, chap. 1, para. 19).

60. **Uruguay**

(1) The Committee considered the sixteenth to twentieth periodic reports of Uruguay (CERD/C/URY/16-20), submitted in one document, at its 2057th and 2058th meetings (CERD/C/SR. 2057 and CERD/C/SR. 2058), held on 17 and 18 February 2011. At its 2078th meeting (CERD/C/SR 2078), held on 4 August 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the submission by the State party of its sixteenth to twentieth periodic reports drafted in accordance with the Committee's guidelines for the preparation of reports, despite the long delay. The Committee appreciates the resumption of dialogue with the State party.

(3) The Committee welcomes the frank and open dialogue held with the delegation as well as its efforts to provide comprehensive responses to issues raised by Committee members during the dialogue.

B. Positive aspects

(4) The Committee welcomes the progress made by the State party towards recognizing the diversity of ethnic groups that make up the Uruguayan population and in promoting their economic, social and cultural integration.

(5) The Committee notes with appreciation the various legislative, institutional and policy developments which have taken place in the State party to combat racial discrimination, including:

(a) Act No. 17.817 of 2004, which creates the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination;

(b) The establishment of the Secretariat of Women of African Descent in the National Institute for Women, in 2005;

(c) The establishment of the Advisory Service for racial equity; the Office for the Promotion and Coordination of Affirmative Action Policies for People of Afro Descent;

(d) Act No. 18.315 of 22 July 2008 on police procedures, which sets out the principles for police conduct;

(e) Act No. 18.437 of 12 December 2008 on education, which establishes anti-discrimination objectives;

(f) The Ceibal Plan, which gives all children attending State primary schools access to a computer;

(g) The standing invitation made to the United Nations special procedures.

(6) The Committee also notes with interest the declaration by the State party of a National Day of *Cadombe* by Act No. 18.059 of 20 November 2006 to celebrate the Afro-Uruguayan Culture and Racial Equity, as well as the Day of the Chùarra Nation and Indigenous Identity by Act No. 18.589 of September 2009.

(7) The Committee notes with appreciation the approval in February 2011 of the budget of the National Human Rights Institution established in accordance with Act No.18446 of 24 December 2008, and hopes that the Commission will now be operationalized as soon as possible.

C. Concerns and recommendations

(8) While noting the statistical data provided by the State party pertaining to the year 2006, the Committee requires reliable and more comprehensive statistical data on the population including economic and social indicators disaggregated by race or ethnicity, in particular on people of African descent and indigenous people, to enable it to better evaluate their enjoyment of civil and political, economic, social and cultural rights in the State party.

The Committee recommends that the State party accelerate the collection and publication of statistical data on the composition of its population and its economic and social indicators disaggregated by ethnicity and race, including data from the 2010 national census, as well as any subsequent censuses and surveys which included the ethnic and racial dimension based on self-identification such as the recent national prison census. The Committee requests the State party to provide the Committee with such disaggregated data in its next periodic report.

(9) While noting that article 8 of the Constitution of the State party establishes the principle of equality between all persons and Act No. 17.817 declares that it is in the national interest to combat racism, xenophobia and other forms of discrimination, the Committee is concerned at the absence of provisions in the legislation of the State party that specifically and clearly prohibit racism and racial discrimination. (art.2)

The Committee recommends that the State party adopt a specific law against racial discrimination or integrate in its current legislation provisions which specifically and clearly prohibit and prevent racial discrimination, in accordance with article 2 of the Convention.

(10) The Committee notes that the response of the State party to the unprecedented economic recession of 2001 has been to provide the highest priority to poverty alleviation

with lesser priority accorded to special measures to counter the structural discrimination against people of African descent and indigenous origin in the expectation that, in any case, as part of the poorest section of the population, they could expect to benefit the most from poverty alleviation programmes.

The Committee, while expressing understanding of this priority accorded to poverty alleviation in general, emphasizes the need to further develop special measures in favour of the structurally disadvantaged sectors of the population to avoid the widening of disparities and intensification of the discriminatory situation suffered by the Afro-Uruguayan and indigenous people, bearing in mind its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.

(11) While noting the information provided by the delegation on the ongoing process for the adoption of the National Plan against Racism and Discrimination, the Committee is concerned at the undue delay in its finalization (art. 2).

The Committee urges the State party take all measures to accelerate the process for adopting and implementing the National Plan against Racism and Discrimination, in consultation with all stakeholders concerned, including people of African descent and indigenous organizations. The Committee also recommends that in this process the State party take into account its general recommendation No. 28 (2002) on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance as well as its concluding observations. The Committee requests the State party to inform the Committee on the progress in this matter as soon as possible.

(12) While noting that the State party has created several mechanisms and adopted various plans, programmes, and strategies to address inequalities faced by people of African descent, the Committee is concerned about the lack of resources and the overlapping of such mechanisms, plans, programmes and strategies and the absence of information on their practical impact and effectiveness (arts. 2 and 5).

The Committee recommends that the State party pursue its efforts to introduce the ethno-racial dimension in all governmental plans, programmes and strategies relevant to the objective of combating and reversing structural discrimination; to allocate specific and sufficient budgets to them; and evaluate them periodically in order to improve their qualitative and quantitative results for the persons targeted. The Committee requests the State party to provide it with concrete data on the achievements of such plans, programmes and strategies, in its next periodic report.

(13) The Committee is concerned that the State's party criminal legislation, particularly the Criminal Code, is not in full compliance with the provisions of article 4 of the Convention, in particular the requirement for criminalizing the dissemination of theories of racial superiority or inferiority and for prohibition of organizations that promote and incite racial discrimination and participation in their activities (art. 4).

Recalling its general recommendations Nos. 1 (1972), 7 (1985) and 15 (1993), which recognize that article 4 is of a preventive and mandatory nature, the Committee reiterates its recommendation (CERD/C/304/Add. 78, para. 14) that the State party provide for this in its Criminal Code provisions and give full effect to article 4 of the Convention by criminalizing dissemination of theories of racial superiority or inferiority and prohibiting organizations which promote and incite racial discrimination and participation in their activities.

(14) The Committee is concerned that, despite the some measures taken by the State party, people of African descent continue to be victims of inequalities, particularly in

employment where they occupy low-skill jobs; in housing where they continue to live in the poorest neighbourhoods on the outskirts of the city; and in education, where dropout rates of children of African descent remain high compared to other ethnic groups in the population of the State party (art. 5).

The Committee recommends that the State party strengthen its efforts, including by undertaking special measures in favour of people of African descent and indigenous origin, in order to reduce inequalities and to improve their effective integration in the Uruguayan society. In particular, the State party should:

(a) Promote the representation of people of African descent and indigenous origin in parliament and other State institutions, as well as their employment in pubic administration and private enterprises as appropriate, including in high level positions; and operationalize the proposed Tripartite Commission for the promotion of racial equity and providing it with sufficient resources to fulfil its mandate;

(b) Ensure adequate housing to people previously evicted from their homes during the earlier dictatorship and integrate the ethnic or racial dimension in housing programmes;

(c) Implement the 2008 law on education and strengthen special measures aimed at, inter alia, reducing the school dropout rates of children of African descent and indigenous origin, and sensitizing their parents to the benefits of education.

(15) The Committee takes note of different measures taken by the State party to address the situation of women of African descent, such as the establishment of the Secretariat for Women of Afro Descent in the National Institute for Women, the inclusion of a gender and ethnicity or race dimension in the implementation at the municipal level of the Second Plan on Equal Opportunities and Rights for Women and Men 2007-2010. The Committee is however concerned about the persisting double discrimination against women of African descent based on their ethnic origin and on their sex, in the enjoyment of economic, social and cultural rights, in particular in the employment, education and housing. (art. 2 and 5)

The Committee recommends that the State party undertake focused research on the ethno-racial dimension of the problem of gender-based discrimination in the State party, and on plans and programmes where special measures may be appropriate. It emphasized the need for the State party to promote the integration of women of African descent into the labour market, particularly their access to high skill jobs, bearing in mind its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination. The Committee requests that the State party provide it with information in this regard in its next periodic report.

(16) While noting measures taken to facilitate access to justice of all, particularly for disadvantaged people, the Committee remains concerned about the effective access to justice and to administrative remedies for disadvantaged people, in particular for Afro-descendents and indigenous people (art.5).

The Committee reiterates its previous recommendation (CERD/C/304/Add.78, para. 17) that the State party make additional efforts to facilitate equal access to judicial and administrative remedies for people of African descent and indigenous origin, to ensure equal access to justice for all. It should also keep under continuous review the question of racial equality in the judicial system and regular collection of information on the impact of the ethno-racial factor in access to justice.

(17) The Committee is concerned about the lack of studies on the ethnic and racial origin of elected representatives or information on measures taken to increase the participation by and representation of people of African descent and indigenous origin in public and political affairs (art.5 (c)).

The Committee recommends that the State party strengthen its efforts to promote the participation of people of African descent and indigenous origin in public affairs, including through special measures. For this purpose, the Committee recommends that the State party continue to carry out awareness-raising campaigns and training programmes directed at remedying the situation.

(18) The Committee is concerned at the lack of sufficient information on complaints, prosecutions, convictions and sentences handed down by national courts and tribunals for acts of racial discrimination, as well as reparation granted. The Committee reiterates its view that the lack of any complaints is not proof of the absence of racial discrimination and may be the result of the victim's lack of awareness of their rights, the lack of confidence on the part of individuals in the police and judicial authorities or authorities' lack of attention or sensitivity to cases of racial discrimination (art. 6).

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party continue to disseminate its legislation on this matter and inform the public, in particular people of African descent and indigenous origin, of all available remedies. It also suggests that the State party provide training to its prosecutors, judges, lawyers, police officers and other law enforcement officials on how to detect and provide redress for acts of racial discrimination. The Committee requests the State party to provide, in its next periodic report, comprehensive information on complaints, proceedings, convictions, sentences, and reparation provided for acts of racial discrimination.

(19) While noting measures taken to promote the cultural identity of people of African descent and indigenous origin, the Committee is concerned at the insufficiency of such measures, and in particular at the persisting stereotypes against people of African descent and indigenous origin. The Committee is also concerned about the absence of information on measures taken to promote the history and culture of such people in the media and text books (art. 7).

The Committee recommends that the State party take additional measures to eliminate stereotypes on Afro-descendent and indigenous people through awareness-raising campaigns; pursue the promotion of their cultural identity, in particular by including in the school curricula the contribution of those people in the shaping of the identity and culture of the State party; and allocate funds to preserve and promote their identity and culture, including in the media.

(20) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct relevance to communities that may be the subject of racial discrimination, such as the ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

(21) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(22) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for

People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009).

(23) The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(24) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(25) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(26) Noting that the State party submitted its core document in 1996, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

(27) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 12, 14 and 15 above.

(28) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 13, 16 and 17 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(29) The Committee recommends that the State party submit its twenty-first to twenty-third periodic reports in a single document, due on 4 January 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

61. **Yemen**

(1) The Committee considered the seventeenth and eighteenth periodic reports of Yemen, submitted in one document (CERD/C/YEM/17-18), at its 2069th and 2070th meetings (CERD/C/SR.2069 and CERD/C/SR.2070th), held on 25th and 28th February 2011. At its 2086th meeting (CERD/C/SR. 2086), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

(2) The Committee welcomes the report submitted in time by the State party and expresses its appreciation for candid oral responses provided during the consideration of the

report. The Committee also welcomes the large and high-level delegation that presented the State party's report.

(3) The Committee also welcomes the State party's willingness to engage in dialogue during a time when the State party is experiencing domestic political challenges. The Committee urges the State party to respect the rights of all protesters to voice their concerns, seek reform and demonstrate peacefully. The Committee urges the State party to ensure that the current political situation in the State party does not foment further violence that targets groups particularly non-citizens, migrant populations, migrant workers, refugees and other vulnerable ethnic groups.

B. Positive aspects

(4) The Committee welcomes the breadth of the legal instruments, both domestic and international, which the State party has implemented or ratified that relate to the protection of human rights.

(5) The Committee welcomes the amendment of legislation in order to address discrimination in the State party, particularly the amendment of the Nationality Act (Act No. 6 of 1990), which now allows Yemeni women that are married to foreigners to pass on their nationality to their children.

(6) The Committee welcomes the establishment of a Commission that was set up pursuant to the Council of Ministers Decree No. 29 of 2004, which is mandated to study national legislation with a view to determining its consistency with international human rights treaties ratified by the State party.

C. Concerns and recommendations

(7) The Committee takes note of the various efforts made by the State party to bring its national legislation, such as the Police Act, in line with international human rights treaties that it has ratified, but regrets that the State party has not yet adopted a definition of racial discrimination that is in line with the Convention (art. 1).

The Committee recommends that the State party ensure that it incorporates into national law a definition on racial discrimination that is in line with the Convention.

(8) The Committee takes note of the efforts by the State party to establish a national human rights institution, but regrets that since the consideration of its previous report, the State party has been slow to take effective measures to establish this institution (art. 2).

The Committee recommends that the State party expedite its efforts to establish a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

(9) The Committee is concerned that the State party continues to view its country as a homogeneous society despite the existence of numerous national and ethnic groups. The Committee also regrets the lack of disaggregated statistical data on the ethnic and racial composition of the population considering the existence of the diversity of ethnic and racial groups in the State party (art. 2).

Further to its previous concluding observations (CERD/C/YEM/CO/16) and general recommendation No. 4 (1973) on the demographic composition of the population, the Committee reiterates its recommendation that the purpose of gathering statistical data is to make it possible for States parties to identify and obtain a better understanding of the ethnic groups in their territory and the kind of discrimination they are or may be subjectto, to find appropriate responses and solutions to the forms of discrimination identified, and to measure progress made. The Committee also

recommends that the State party formally recognize the existence of various ethnic groups within its territory and the fact that the State party is not a truly homogeneous society.

(10) While noting that Sharia is the source of all law in the State party, the Committee regrets the lack of information on the application of Sharia law and guarantees that it is not applied to foreigners and non-Muslims without their consent (art. 2).

The State party should ensure that the application of Sharia law is consistent with the obligations that it has undertaken under international law particularly under the Convention. The Committee recommends that the State party take effective measures to ensure that Sharia law is not applied to foreigners and non-Muslims without their consent.

(11) The Committee is concerned at the lack of statistical data in the State party report on the prosecution of cases involving racial discrimination (art. 4).

Bearing in mind general recommendation No. 31 (2005), the Committee recommends that the State party compile, and include in its next period report, disaggregated statistical data on all prosecutions conducted involving racial discrimination.

(12) The Committee reiterates its concern expressed in its previous concluding observations (CERD/C/YEM/CO/16) with regard to the absence of any explicit penal provision in national legislation that criminalizes and punishes the conduct and activities proscribed by article 4 of the Convention such as the propaganda and the dissemination of ideas based on racial superiority. The Committee further regrets the lack of statistical data on the prosecution of cases involving racial discrimination (art. 4).

The Committee reiterates the recommendation made in its previous concluding observations (CERD/C/YEM/CO/16) that the State party should revise its Penal Code in order to introduce specific legislation dealing with conduct that is proscribed by article 4 of the Convention. In this regard, the Committee also draws the attention of the State party to its general recommendation No. 15 (1993) on article 4 and reminds the State party of its obligation to ensure that such legislation is effectively enforced.

(13) The Committee recalls its previous concluding observations (CERD/C/YEM/CO/16) and notes with concern that the State party has not yet withdrawn its reservations to article 5(c) and (d) (iv), (vi) and (vii) of the Convention, which provisions, inter alia, provide for the right to participate in elections, the right to marriage and choice of spouse, the right to inherit, and the right to freedom of thought, conscience and religion (art. 5).

The Committee expresses the belief that a reservation to article 5 has the effect of negating the core purposes and objectives of the Covenant. The Committee, therefore, reiterates the recommendation made in its previous concluding observations (CERD/C/YEM/CO/16) that the State party should consider withdrawing its reservation to article 5 (c) and (d) (iv), (vi) and (vii) of the Convention, which provisions, inter alia, provide for the right to participate in elections, the right to marriage and choice of spouse, the right to inherit, and the right to freedom of thought, conscience and religion. The Committee expresses the hope that the State party will thoroughly examine the reservations and understand the need to withdraw them in order to give full effect to its obligations under the Convention.

(14) While noting the challenges presented by the influx of refugees and asylum-seekers into the State party, the Committee regrets the lack of legislation governing asylum applications. The Committee is also concerned at the lack of recognition of refugee certificates that are issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) in the State party. The Committee is further concerned about the plight

of internally displaced persons (IDPs) in various governorates of the State party (arts. 2 and 5)

The Committee recommends that the State party establish a legal framework to govern the application process of asylum. The Committee further recommends that the State party adopt specific measures aimed at promoting the coordination of the process of issuing refugee certificates with UNHCR in order to ensure that their certificates are recognized and that the rights of refugees and asylum-seekers are protected. The Committee further recommends that the State party strengthen its efforts in the provision of humanitarian assistance to IDPs and ensuring their immediate return to their communities.

(15) While noting the State party's efforts to introduce safety net programmes aimed at improving the livelihoods of marginalized groups, the Committee is concerned at the persistent and continued social-economic exclusion of descent-based communities such as the Al-Akhdam, some of whom are understood to be of African descent. The Committee also expresses its concern at the failure by the State party to acknowledge that the Al-Akhdam have different ethnic characteristics (arts. 2, para. (2) and 5).

Bearing in mind its general recommendation No. 29 (2002) on Descent, the Committee recommends that the State party study the root causes of the marginalization of the Al-Akhdam people. The Committee further recommends that the State party strengthen its efforts to improve the welfare of all marginalized and vulnerable descent-based groups, particularly the Al-Akhdam, in the fields of education, access to health, housing, social security services and property ownership.

(16) While taking note of the State party's statement on its efforts to protect the rights of Jews and Bahai's, the Committee notes with concern that these minority religious groups are often subjected to threats that affect their right to freely practice their religion (arts. 2 and 5).

The Committee, recognizing the "intersectionality" of racial and religious discrimination, recommends that the State party ensure that the rights of religious minorities, particularly Jews and the Baha'is, to freely practice their religion, are protected by guaranteeing their security and freedom of worship at all times.

(17) Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

(18) In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that 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, when implementing the Convention in its domestic legal order. 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.

(19) The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009).

(20) The Committee expresses great concern at the lack of information from non-governmental organizations (NGOs) on the State party's efforts and challenges in implementing the Convention. The Committee wishes to underscore the importance that it attaches to reports that are submitted by NGOs, which enrich the dialogue between the Committee and the State party delegation during the consideration of State party's reports. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

(21) The Committee 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 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

(22) 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 observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

(23) Noting that the State party submitted its core document in 2001, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006. (HRI/MC/2006/3)

(24) In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 13 and 14 above.

(25) The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 8, 10 and 15 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

(26) The Committee recommends that the State party submit its nineteenth and twentieth periodic reports in a single document, due on 17 November 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).

IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention

62. In 2011, Mr. Amir served as coordinator and Mr. Thornberry as alternate coordinator for follow-up to the consideration of reports submitted by States parties.

63. Terms of reference for the work of the coordinator on follow-up[4] and guidelines on follow-up to be sent to each State party together with the concluding observations of the Committee[5] were adopted by the Committee at its sixty-sixth and sixty-eighth sessions, respectively.

64. At the 2088th meeting (seventy-eighth session) and the 2119th meeting (seventy-ninth session), held on 11 March and 29 August 2011, respectively, the coordinator and alternate coordinator on follow-up presented a report on their activities to the Committee. During its seventy-ninth session, the Committee also considered a brief study prepared by the coordinator on the state of the follow-up procedure since its inception.

65. Since the closing of the seventy-seventh session, follow-up reports on the implementation of those recommendations regarding which the Committee had requested information were received from the following States parties: Australia (CERD/C/AUS/CO/15-17/Add.1), Azerbaijan (CERD/C/AZE/CO/6/Add.1), Bulgaria (CERD/C/BGR/CO/19/Add.1), China (CERD/C/CHN/CO/10-13/Add.1), Denmark (CERD/C/DNK/CO/18-19/Add.1), Finland (CERD/C/FIN/CO/19/Add.1), France (CERD/C/FRA/CO/17-19/Add.1), Greece (CERD/C/GRC/CO/16-19/Add.1), Guatemala (CERD/C/GTM/CO/12-13/Add.1), Japan (CERD/C/JPN/CO/3-6/Add.1), Kazakhstan (CERD/C/KAZ/CO/4-5/Add.1), Monaco (CERD/C/MCO/CO/6/Add.1), Morocco (CERD/C/MAR/CO/17-18/Add.1), Netherlands (CERD/C/NLD/CO/17-18/Add.1), Peru (CERD/C/PER/CO/14-17/Add.1), Republic of Moldova (CERD/C/MDA/CO/7/Add.2), Slovakia (CERD/C/SVK/CO/6-8/Add.1) and Uzbekistan (CERD/C/UZB/CO/6-7/Add.1).

66. At its seventy-eighth and seventy-ninth sessions, the Committee considered the follow-up reports of Bulgaria, China, Finland, Greece, Guatemala, Japan, Kazakhstan, Monaco, Netherlands, Peru, the Republic of Moldova and Slovakia and continued the constructive dialogue with these States parties by transmitting comments and requesting further information.

67. Mr. Peter participated in a subregional seminar on follow-up to the concluding observations adopted by the Committee in relation to the reports of the following States parties: Botswana, Namibia, South Africa, Zambia and Zimbabwe. The seminar took place in Pretoria and was organized by the Office of the High Commissioner for Human Rights, with the support of the Government of South Africa.

[4] For the terms of reference of the work of the coordinator on follow-up, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV.

[5] For the text of the guidelines, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 18* (A/61/18), annex VI.

V. Review of the implementation of the Convention in States parties the reports of which are seriously overdue

A. Reports overdue by at least 10 years

68. The following States parties are at least 10 years late in the submission of their reports:

Sierra Leone	Fourth periodic report due since 1976
Liberia	Initial report due since 1977
Gambia	Second periodic report due since 1982
Somalia	Fifth periodic report due since 1984
Papua New Guinea	Second periodic report due since 1985
Solomon Islands	Second periodic report due since 1985
Central African Republic	Eighth periodic report due since 1986
Afghanistan	Second periodic report due since 1986
Seychelles	Sixth periodic report due since 1989
Saint Lucia	Initial report due since 1991
Malawi	Initial report due since 1997
Burkina Faso	Twelfth periodic report due since 1997
Niger	Fifteenth periodic report due since 1998
Swaziland	Fifteenth periodic report due since 1998
Burundi	Eleventh periodic report due since 1998
Iraq	Fifteenth periodic report due since 1999
Gabon	Tenth periodic report due since 1999
Haiti	Fourteenth periodic report due since 2000
Guinea	Twelfth periodic report due since 2000
Syrian Arab Republic	Sixteenth periodic report due since 2000
Holy See	Sixteenth periodic report due since 2000
Zimbabwe	Fifth periodic report due since 2000
Lesotho	Fifteenth periodic report due since 2000
Tonga	Fifteenth periodic report due since 2001
Mauritius	Fifteenth periodic report due since 2001

B. Reports overdue by at least five years

69. The following States parties are at least five years late in the submission of their reports:

Sudan	Twelfth periodic report due since 2002
Bangladesh	Twelfth periodic report due since 2002
Eritrea	Initial report due since 2002
Belize	Initial report due since 2002
Benin	Initial report due since 2002
Algeria	Fifteenth periodic report due since 2003
Sri Lanka	Tenth periodic report due since 2003
San Marino	Initial report due since 2003
Equatorial Guinea	Initial report due since 2003
Hungary	Eighteenth periodic report due since 2004
Cyprus	Seventeenth periodic report due since 2004
Egypt	Seventeenth periodic report due since 2004
Timor-Leste	Initial report due since 2004
Jamaica	Sixteenth periodic report due since 2004
Honduras	Initial report due from 2004
Trinidad and Tobago	Fifteenth periodic report due since 2004

C. Action taken by the Committee to ensure submission of reports by States parties

70. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of the implementation of the Convention. The Committee agreed that, in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources, including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue.

71. At its seventy-ninth session, the Committee decided to postpone the scheduled review the implementation of the Convention in Jordan and Viet Nam as the States parties submitted their reports prior to that session. The Committee also decided to postpone the

review scheduled in respect to Belize in the light of a commitment received from the State party to finalize its report in the near future.

VI. Consideration of communications under article 14 of the Convention

72. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of 54 States parties which have recognized the competence of the Committee to consider such communications can be found in annex I, section B.

73. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

74. At the time of adoption of the present report the Committee had registered, since 1984, 48 complaints concerning 54 States parties. Of those, 1 complaint was discontinued and 17 were declared inadmissible. The Committee adopted final decisions on the merits on 27 complaints and found violations of the Convention in 11 of them. Three complaints were pending consideration.

75. During its seventy-ninth session, on 26 August 2011, the Committee considered communication No. 45/2009 (*A.S. v. Russian Federation*), which concerned leaflets of racist and xenophobic nature calling for violence against Roma and their expulsion from a specific territory. The petitioner, a Russian national of Roma ethnicity who had found one of the leaflets while on transit through the territory in question, unsuccessfully tried to have criminal proceedings instituted against the authors of the leaflets. She claimed to be a victim of a violation by the Russian Federation of articles 4, 5 and 6 of the Convention.

76. The Committee concluded that the petitioner could not qualify as a victim since the content of the leaflets had not directly and personally affected her and found, therefore, that the communication was inadmissible *ratione personae* under article 14, paragraph 1, of the Convention. Although the Committee considered that it was not within its competence to examine the communication, it took note of the racist and xenophobic nature of the actions of the identified authors of the leaflets and reminded the State party of its obligations under articles 4 and 6 of the Convention to prosecute ex officio all statements and actions which attempt to justify or promote racial hatred and discrimination in any form, regardless of whether or not there was a formal request from the alleged victim(s) to initiate criminal proceedings. The Committee also recalled its concluding observations, issued following consideration of the State party's periodic report in 2008, and encouraged it to follow-up on the Committee's recommendations contained therein.

VII. Follow-up to individual communications

77. At its sixty-seventh session,[6] following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1), the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

78. At the same session, the Committee decided to add two new paragraphs to its rules of procedure setting out details of the procedure.[7] On 6 March 2006, at its sixty-eighth session, Mr. Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded by Mr. de Gouttes with effect from the seventy-second session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual report to the General Assembly, reflect all cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

79. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies which do not address the Committee's recommendations or only relate to certain aspects of these recommendations are generally considered unsatisfactory.

80. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 27 complaints and found violations of the Convention in 11 cases. In nine cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

[6] See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV, sect. I

[7] Ibid., annex IV, sect. II.

Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation

State party and number of cases with violation	*Communication, number, author and location*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory or incomplete response*	*No follow-up response received*	*Follow-up dialogue still ongoing*
Denmark (5)	10/1997, Habassi	X (A/61/18)	X			
	16/1999, Kashif Ahmad	X (A/61/18)	X			
	34/2004, Mohammed Hassan Gelle	X (A/62/18)	X (A/62/18)			
	40/2007, Er	X (A/63/18)	X (A/63/18)			
	43/2008, Saada Mohamad Adan	X (A/66/18) 6 December 2010 28 June 2011	X partly satisfactory			
Netherlands (2)	1/1984, A. Yilmaz-Dogan				X (never requested by the Committee)	
	4/1991, L.K.				X (never requested by the Committee)	
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
Serbia and Montenegro (1)	29/2003, Dragan Durmic	X (A/62/18)				X
Slovakia (2)	13/1998, Anna Koptova	X (A/61/18, A/62/18)				X
	31/2003, L.R. et al.	X (A/61/18, A/62/18)				X

Petitions in which the Committee found no violations of the Convention but made recommendations

State party and number of cases with violation	*Communication, number, author and location*	*Follow-up response received from State party*	*Satisfactory response*	*Unsatisfactory response*	*No follow-up response received*	*Follow-up dialogue still ongoing*
Australia (3)	6/1995, Z.U.B.S.				X (never requested by the Committee)	
	8/1996, B.M.S.				X (never requested by the Committee)	
	26/2002, Hagan	X 28 January 2004				
Denmark (4)	17/1999, B.J.				X (never requested by the Committee)	
	20/2000, M.B.				X (never requested by the Committee)	
	27/2002, Kamal Qiereshi		X			
	41/2008 Ahmed Farah Jama					X
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
Slovakia (1)	11/1998, Miroslav Lacko				X (never requested by the Committee)	

VIII. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

81. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, as transmitted to it by the competent bodies of the United Nations, and to submit to the General Assembly its expressions of opinion and recommendations in this regard.

82. Accordingly, and at the request of the Committee, Mr. Kut examined the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2011[8] (A/66/23) and copies of the working papers on the 16 Territories prepared by the Secretariat for the Special Committee and the Trusteeship Council, listed in document CERD/C/79/3, and presented his report at the seventy-ninth session, on 29 August 2011. The Committee noted, as it has done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention owing to the fact that the copies of the reports received pursuant to paragraph 2 (b) contain only scant information directly relating to the principles and objectives of the Convention.

83. The Committee further noted that there was significant ethnic diversity in a number of the Non-Self-Governing Territories, warranting a close watch on incidents or trends which reflect racial discrimination and violation of rights guaranteed in the Convention. The Committee therefore stressed that greater efforts should be made to raise awareness concerning the principles and objectives of the Convention in Non-Self-Governing Territories. The Committee further stressed the need for States parties administering Non-Self-Governing Territories to include details on the implementation of the Convention in these territories in their periodic reports to the Committee.

[8] *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 23* (A/66/23).

IX. Action taken by the General Assembly at its sixty-fifth session

84. The Committee considered this agenda item at its seventy-eighth and seventy-ninth sessions. For its consideration of this item, the Committee had before it General Assembly resolution 65/200 of 21 December 2010.

85. The Committee took note with appreciation of the decision of the General Assembly to extend the authorization to the Committee to meet for an additional week per session, as a temporary measure, in 2012, in order to address the backlog of reports of States parties and individual complaints awaiting consideration.

86. The Committee welcomed the opportunity given to its Chairperson, at the sixty-fifth session of the General Assembly, to present an oral report on the work of the Committee and to engage in an interactive dialogue with the Assembly. The Committee also took note with appreciation of the invitation extended to the Chairperson to again present a report and engage in an interactive dialogue with the members of the General Assembly at its sixty-seventh session.

X. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference

87. The Committee considered the question of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference at its seventy-eighth and seventy ninth sessions.

88. Mr. Murillo Martínez participated in the tenth session of the Working Group of Experts on People of African Descent held in Geneva from 28 March–1 April 2011, at which the Working Group engaged in a thematic discussion on the situation of people of African descent in the context of the International Year for People of African Descent 2011.

89. Mr. Diaconu participated in the eighth session (11–22 October 2010) of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action in the context of sharing of experience, including on good practices, implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.

90. During its 2099th meeting (seventy-ninth session), the Committee adopted a statement on the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action (see annex X).

XI. Thematic discussions and general recommendations

91. Following the General Assembly resolution 64/169 of 18 December 2009, proclaiming the year beginning on 1 January 2011 the International Year for People of African Descent, the Committee at its seventy-eighth session held a thematic discussion on the subject of racial discrimination against people of African descent. Participants of the thematic discussion included representatives from States parties to the Convention; international organizations including UNESCO, UNHCR and the Economic Commission for Latin America and the Caribbean; and non-governmental organizations. Summary records of the thematic discussion can be found in documents CERD/C/SR.2080 and 2081.[9]

92. At the same session, the Committee decided to embark upon the task of drafting a new general recommendation on racial discrimination against people of African descent, in the light of the difficulties in the realization of the rights of people of African descent observed during the examination of reports and as part of the activities of the Committee to contribute to the International Year of People of African Descent. At its seventy-ninth session, the Committee adopted general recommendation No. 34 (2011) on racial discrimination against people of African descent (see annex IX).

93. At its seventy-ninth session, the Committee decided to hold a thematic discussion on racist hate speech during its eightieth session, to be held in Geneva from 13 February to 9 March 2012.

[9] An informal summary prepared by the Secretariat can be found on the OHCHR webpage at www2.ohchr.org/english/bodies/cerd/AfricanDescent.htm.

XII. Working methods of the Committee

94. The working methods of the Committee are based on its rules of procedure, adopted in accordance with article 10 of the International Convention on the Elimination of All Forms of Racial Discrimination, as amended,[10] and the Committee's established practice, as recorded in its relevant working papers and guidelines.[11]

95. At its seventy-sixth session, the Committee discussed its working methods and the need to improve its dialogue with States parties. The Committee decided that, instead of sending list of questions before the session, the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. Such a list of themes does not require written replies.

96. At its seventy-seventh session, on 3 August 2010, the Committee held an informal meeting with representatives of non-governmental organizations to discuss ways and means of strengthening cooperation. The Committee decided to hold informal meetings with non-governmental organizations at the beginning of each week of its sessions when States parties' reports are being discussed.

96. At its seventy-ninth session, on 25 August 2011, the Committee held its third informal meeting with States parties which was attended by 78 States parties, including those delegations of States parties based in New York without offices in Geneva via a video link. The meeting sought to update States parties on the Committee's methods of work, improve dialogue between the Committee and States parties and promote the engagement of States parties with the Committee throughout the reporting cycle.

[10] Compilation of rules of procedure adopted by Human Rights Treaty Bodies (HRI/GEN/3/Rev.3).

[11] This includes in particular the overview of the methods of work of the Committee (*Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), chap. IX); the working paper on working methods (*Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 18* (A/58/18), annex IV); the terms of reference for the work of the coordinator on follow-up to the Committee's observations and recommendations (*Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV); and the guidelines for the Committee's early warning and urgent action procedure (*Official Records of the General Assembly, Sixty-second Session, Supplement No. 18* (A/62/18), annex III).

Annexes

Annex I

Status of the Convention

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (174) as at 2 September 2011[a]

Afghanistan, Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy See, Hungary, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (54) as at 2 September 2011

Algeria, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Kazakhstan, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, Montenegro, Morocco, Netherlands, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, San Marino, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain,

[a] The following States have signed but not ratified the Convention: Bhutan, Djibouti, Grenada, Nauru and Sao Tome and Principe.

Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay, Venezuela (Bolivarian Republic of).

C. States parties that have accepted the amendments to article 8, paragraph 6, of the Convention adopted at the Fourteenth Meeting of States Parties[b] (43) as at 2 September 2011

Australia, Bahamas, Bahrain, Belize, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Guinea, Holy See, Iceland, Iran (Islamic Republic of), Iraq, Ireland, Liberia, Liechtenstein, Luxembourg, Mexico, Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba), New Zealand, Norway, Poland, Republic of Korea, Saudi Arabia, Seychelles, Slovakia, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

[b] The following States have signed but not ratified the Convention: Bhutan, Djibouti, Grenada, Nauru and Sao Tome and Principe.

Annex II

Agendas of the seventy-eighth and seventy-ninth sessions

A. Seventy-eighth session (14 February–11 March 2011)

1. Adoption of the agenda.
2. Organizational and other matters.
3. Prevention of racial discrimination, including early warning measures and urgent action procedures.
4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
6. Consideration of communications under article 14 of the Convention.
7. Follow-up procedure.
8. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference.
9. Universal periodic review procedure of the Human Rights Council.

B. Seventy-ninth session (8 August–2 September 2011)

1. Adoption of the agenda.
2. Organizational and other matters.
3. Prevention of racial discrimination, including early warning measures and urgent action procedures.
4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.
6. Consideration of communications under article 14 of the Convention.
7. Follow-up procedure.
8. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference.
9. Universal periodic review procedure of the Human Rights Council.
10. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.
11. Report of the Committee to the General Assembly at its sixty-sixth session.

Annex III

Decision of the Committee under article 14 of the Convention adopted at the seventy-ninth session

Decision concerning communication No. 45/2009

Submitted by:	A.S. (represented by counsel, the Anti-Discrimination Centre "Memorial")
Alleged victim:	The petitioner
State party:	Russian Federation
Date of the communication:	20 August 2009 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 26 August 2011,

Adopts the following:

Decision on admissibility

1.1 The petitioner is Ms. A.S., a Russian citizen of Roma ethnicity born on 4 September 1961 and currently residing in St. Petersburg, Russian Federation. She claims to be a victim of a violation by the Russian Federation[a] of articles 4, 5 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. She is represented by counsel, the Anti-Discrimination Centre "Memorial".

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 27 October 2009.

Factual background

2.1 The petitioner was born in the Pskov region, where a community of her Roma relatives continues to reside at present. On 16 July 2008, she found a leaflet pinned to an electricity post in a public area of the town of Opochka, Pskov region [exact address is available on file with the Secretariat], bearing the following text:

> "White Brothers! Enough we had [of] black bastards in our town! Let us stand together side by side and set their asses up! Stinking gypsies – go away. We, Mr. I.B. and Mr. I.F., will drive the blacks out of our town. Find us: [contact address]."[b]

[a] The Convention was ratified by the Russian Federation on 4 February 1969, and the declaration under article 14 was made on 1 October 1991.

[b] A scanned copy of the original text of the leaflet in Russian language, containing full names of the alleged authors of the leaflet and their contact address, as well as English translation thereof are provided by the petitioner.

2.2 On 18 July 2008, the petitioner submitted an application based on the above-described facts to the Prosecutor's Office of the Pskov Region, requesting the opening of criminal proceedings under article 282 (incitement to hatred or enmity, as well as abasement of human dignity) and article 280 (public appeals to encourage extremist activity) of the Criminal Code of the Russian Federation (the Criminal Code).

2.3 On 21 July 2008, the authorities found two more leaflets with similar content close to the area where the first leaflet had been found. These two leaflets depicted the Nazi swastika.

Adoption of decision No. 1 of the Prosecutor's Office of the Pskov Region

2.4 On 27 July 2008, the Deputy Head of the Investigation Department of the Prosecutor's Office of the Pskov Region (Investigation Department of the Prosecutor's Office) decided not to initiate criminal proceedings under articles 280 and 282 of the Criminal Code for lack of corpus delicti (decision No. 1 of the Prosecutor's Office of the Pskov Region). This decision was adopted on the basis of the investigation which established that the leaflet found by the petitioner on 16 July 2008 had been written by a third person, Ms. Y.L., who was in conflict with the two individuals named in the leaflet. At the beginning of July 2008, she wrote a number of leaflets, in order to take revenge on the individuals named and to stir up violence between the representatives of the Roma community living on the territory of the town of Opochka and the said individuals. Ms. Y.L. gave the leaflets to her cohabitant, Mr. A.K., who, with the same intentions, then pinned one of them to an electricity post, and left the others in the backyard of the nearby house.

2.5 The above-mentioned actions, in the opinion of the Deputy Head of the Investigation of the Prosecutor's Office, did not amount to incitement to hatred or enmity against the Roma, since there was no direct intent, required by article 282 of the Criminal Code, to incite hatred or enmity between members of the Roma community and members of the titular (Slavic) ethnic group. Rather, Ms. Y.L. and Mr. A.K.'s actions were prompted by their intent to cause harm to the two individuals named in the leaflet through the actions of the Roma. Moreover, given that the leaflets were distributed in the area predominantly populated by the Roma, Ms. Y.L. and Mr. A.K.'s actions were lacking the element of publicity, also required by article 282 of the Criminal Code, for the members of the titular (Slavic) ethnic group to have 'necessary and sufficient conditions' to become acquainted with the content of the leaflets in question.

2.6 According to the decision, Ms. Y.L. and Mr. A.K.'s actions equally did not amount to public appeals to encourage extremist activity, proscribed by article 280 of the Criminal Code. As transpires from the text of the leaflets found on 16 and 21 July 2008, its content was in effect addressed to members of the Roma community, and Ms. Y.L. and Mr. A.K. did not pursue the goal of stirring up a conflict between members of different ethnic groups and nationalities residing in the town of Opochka, Pskov Region. The investigation, however, established that there were elements of crimes proscribed by article 129, part 1 (slander), of the Criminal Code with regard to the two individuals named in the leaflets found on 16 and 21 July 2008, and article 130, part 1 (insult), of the Criminal Code with regard to the representatives of the Roma community in the town of Opochka, Pskov Region. According to article 20, part 2, of the Criminal Procedure Code, offences proscribed by article 129 and article 130 of the Criminal Code are subject to private prosecution, and criminal proceedings under these articles can be initiated exclusively on the basis of the injured person's application to the justice of the peace.

Revocation of decision No. 1 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decision No. 2 of the Prosecutor's Office of the Pskov Region

2.7 On 11 August 2008, decision No. 1 of the Prosecutor's Office of the Pskov Region was revoked *proprio motu* by a superior prosecutor and the case was sent back for additional investigation. On 20 August 2008, the Investigation Department of the Prosecutor's Office again decided not to initiate criminal proceedings under articles 280 and 282 of the Criminal Code for lack of corpus delicti in the actions of Ms. Y.L. and Mr. A.K. (decision No. 2 of the Prosecutor's Office of the Pskov Region).

Revocation of decision No. 2 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decision No. 3 of the Prosecutor's Office of the Pskov Region

2.8 On 18 September 2008, decision No. 2 of the Prosecutor's Office of the Pskov Region was revoked *proprio motu* by a superior prosecutor and the case was sent back for additional investigation. On 5 October 2008, the Investigation Department of the Prosecutor's Office again decided, for the same reasons, not to initiate criminal proceedings under the articles of the Criminal Code invoked by the petitioner (decision No. 3 of the Prosecutor's Office of the Pskov Region).

Revocation of decision No. 3 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decision No. 4 of the Prosecutor's Office of the Pskov Region

2.9 On 8 December 2008, decision No. 3 of the Prosecutor's Office of the Pskov Region was revoked *proprio motu* by a superior prosecutor and the case was sent back for additional investigation. The investigating authorities were requested to legally qualify the impugned actions of Ms. Y.L. and Mr. A.K., taking into account the results of linguistic examination. On 10 December 2008, the Investigation Department of the Prosecutor's Office again decided not to initiate criminal proceedings (decision No. 4 of the Prosecutor's Office of the Pskov Region). This decision contains the same conclusions as decision No. 1 of the Prosecutor's Office of the Pskov Region. In addition, it refers to the expert report No. 478 of 29 September 2008, according to which all three leaflets had been written by Ms. Y.L. It also refers to the results of linguistic examination of 30 October 2008, establishing that the wording used in the first leaflet, namely appeals to violent acts against individuals of Roma ethnicity, could be characterized as "extremist".

Revocation of decision No. 4 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decision No. 5 of the Prosecutor's Office of the Pskov Region

2.10 On 6 April 2009, decision No. 4 of the Prosecutor's Office of the Pskov Region was revoked *proprio motu* by a superior prosecutor and the case was sent back for additional investigation. This time, the investigating authorities were requested to further question Ms. Y.L. and Mr. A.K. in order to establish who took the lead in writing the leaflets, as well as to identify the whereabouts of the remaining leaflets that have not been found. The investigating authorities were also requested to further question Ms. L.U. of Roma ethnicity who lived in a house where the other two leaflets have been found on 21 July 2008. On 23 April 2009, the Investigation Department of the Prosecutor's Office again decided not to initiate criminal proceedings (decision No. 5 of the Prosecutor's Office of the Pskov Region). This decision contains the same conclusions as decision No. 1 of the Prosecutor's Office of the Pskov Region. In addition, it refers to the testimonies received as a result of further questioning of Ms. Y.L., Mr. A.K. and Ms. L.U. Namely:

(a) Ms. Y.L. and Mr. A.K. could not recall who took the lead in writing the leaflets but both of them confirmed that the leaflets were not intended to "cause great harm to anyone". Ms. Y.L. and Mr. A.K. expected that representatives of the Roma community would "only intimidate" the two individuals named in the leaflets.

(b) Mr. A.K. pinned one leaflet to an electricity post, and left the others close to where the Roma community lived.

(c) Ms. L.U. spoke about the content of the leaflets only with members of her family and the petitioner. The investigation did not find any other individuals who were aware of the content of the leaflets.

Revocation of decision No. 5 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decision No. 6 of the Prosecutor's Office of the Pskov Region

2.11 On 10 June 2009, decision No. 5 of the Prosecutor's Office of the Pskov Region was revoked *proprio motu* by a superior prosecutor and the case was sent back for additional investigation. On 29 June 2009, the Investigation Department of the Prosecutor's Office again decided not to initiate criminal proceedings (decision No. 6 of the Prosecutor's Office of the Pskov Region). This decision contains the same conclusions as decision No. 1 of the Prosecutor's Office of the Pskov Region. In addition, it refers to the questioning of Mr. A.U., the son of Ms. L.U., who acknowledged that he spoke to the two individuals named in the leaflets after the leaflet in question was shown to him by his mother. Mr. A.U. further explained that he "did not have any claims in respect to anyone" after he "has ascertained that the two individuals named in the leaflets had nothing to do with their content".

Petitioner's attempt to appeal in court decision No. 1 of the Prosecutor's Office of the Pskov Region

2.12 It is unclear at what stage of the proceedings the petitioner became aware of the revocation of decision No. 1 of the Prosecutor's Office of the Pskov Region and subsequent adoption of decisions Nos. 2–6 of the Prosecutor's Office of the Pskov Region.

2.13 On 18 September 2008, the petitioner appealed decision No. 1 of the Prosecutor's Office of the Pskov Region to the Opochka District Court on the basis of article 125 of the Criminal Procedure Code. She claimed, inter alia, that the disposition of article 130, part 1, of the Criminal Code required that the denigration of the honour and dignity be directed at a specific person or specific persons, whereas the leaflets in question did not refer to any specific persons. The petitioner further argued that by refusing to initiate criminal proceedings and referring her to the procedure of private prosecution, the public official who took a decision on her application did not take into account the degree of public danger posed by the impugned actions of Ms. Y.L. and Mr. A.K. She added that such actions could have resulted in mass riots, threat to the life and health of many people and destabilization of inter-ethnic relations in Opochka. The petitioner recalled that, given the current situation in the Russian Federation with its ever increasing number of crimes committed on the ethnic grounds, such "manifestations of extremism should not remain unpunished".

2.14 On 23 September 2008, the Opochka District Court declined to accept the petitioner's appeal on the grounds that (1) the 10-day deadline for appealing that decision had been missed; and (2) in her appeal, the petitioner contested the legal qualification of the impugned actions made by the Deputy Head of the Investigation Department, which in itself could not be a subject of judicial review under article 125 of the Criminal Procedure Code.

2.15 On 20 October 2008, the petitioner appealed the ruling of the Opochka District Court of 23 September 2008 to the Judicial Chamber for Criminal Cases of the Pskov Regional Court (Pskov Regional Court). On 24 December 2008, the Pskov Regional Court upheld the ruling of the Opochka District Court of 23 September 2008 in the part dealing with the scope of judicial review under article 125 of the Criminal Procedure Code. It held that, further to article 125, part 1, of the Criminal Procedure Code, only an action, omission

to act or a procedural decision of a public official could be the subject of judicial review. In the present case, however, the petitioner was contesting the legal qualification of the crime. The Pskov Regional Court further ruled that the reference to the 10-day deadline for appealing decision No. 1 of the Prosecutor's Office of the Pskov Region was inapplicable to the present case and should be removed from the ruling of the Opochka District Court of 23 September 2008.

Petitioner's attempt to appeal in court decision No. 4 of the Prosecutor's Office of the Pskov Region

2.16 On 11 January 2009, the petitioner appealed decision No. 4 of the Prosecutor's Office of the Pskov Region to the Opochka District Court on the basis of article 125 of the Criminal Procedure Code. On 16 January 2009, the Opochka District Court declined to accept the petitioner's appeal, stating that she contested the legal qualification of the impugned actions made by the Deputy Head of the Investigation Department, which in itself could not be a subject of judicial review under article 125 of the Criminal Procedure Code.

2.17 On 26 January 2009, the petitioner appealed the ruling of the Opochka District Court of 16 January 2009 to the Pskov Regional Court. On 25 February 2009, the Pskov Regional Court referred to paragraph 5 of the ruling of the Presidium of the Supreme Court No. 1 "On the Practice of Examinations by Court of Complaints on the Basis of Article 125 of the Criminal Procedure Code" dated 10 February 2009 and held that the Opochka District Court should not have accepted the petitioner's case in the first place, since none of her rights have been infringed. The Pskov Regional Court based this conclusion on the fact that the petitioner "lived and worked in St. Petersburg, was officially registered as residing in Vlesno village of the Krasnogorodsk district of the Pskov region, whereas the leaflets have been distributed in the town of Opochka of the Pskov region".

Petitioner's arguments on the admissibility of the communication

2.18 The petitioner submits that the six-month period for the purposes of article 14, paragraph 5, of the Convention should be counted from the ruling of the Pskov Regional Court of 25 February 2009, which, in her opinion, constitutes a final judgment in the legal proceedings by virtue of which she contested decision No. 4 of the Prosecutor's Office of the Pskov Region not to initiate criminal proceedings under articles 280 and 282 of the Criminal Code for lack of corpus delicti in the actions of Ms. Y.L. and Mr. A.K.

2.19 The petitioner argues that it would have been essentially impossible and ineffective for her to contest each of the six decisions of the Prosecutor's Office of the Pskov Region, because (1) all of them have been nearly identical in their conclusions and often content, and (2) the number of decisions and the frequency of their revocation and adoption would have made her engage in as many as six parallel court proceedings. The petitioner adds that she has initiated and followed through two sets of court proceedings, both unsuccessfully. She explains that the reason for contesting the decisions of the Prosecutor's Office of the Pskov Region Nos. 1 and 4 was that, by the time the proceedings on the first decision were completed, those on the fourth decision were just starting.

2.20 The petitioner contends that she has exhausted all available domestic remedies. The petitioner submits that the State party may argue that she could have initiated proceedings under article 130 of the Criminal Code (insult) and that, by failing to do so, she has also failed to exhaust all available domestic remedies. She recalls that under article 20 of the

Criminal Procedure Code, offences proscribed by article 130 of the Criminal Code are subject to private prosecution. The petitioner refers to the Committee's decision in *Sadic v. Denmark*,[c] and argues by analogy that it cannot be regarded as an effective remedy to initiate proceedings under article 130 of the Criminal Code after having unsuccessfully invoked article 282 of the Criminal Code (incitement to hatred or enmity, as well as abasement of human dignity), since the requirements for prosecution under both articles are identical and both require direct intent. Since the disposition of article 130 of the Criminal Code requires that the denigration of the honour and dignity be directed at a specific person or specific persons, it would be difficult for her to initiate proceedings under this article, as she was not mentioned in any of the leaflets. The petitioner concludes that, given the repeated refusal of the Prosecutor's Office of the Pskov Region to initiate criminal proceedings under article 282 of the Criminal Code for lack of direct intent, there was no prospect to have criminal proceedings initiated under article 130 of the Criminal Code with regard to the same factual background.

2.21 The petitioner submits that the State party may also argue that she has failed to avail herself of the opportunity to have her case examined under the supervisory review procedure. According to article 402 of the Criminal Procedure Code, supervisory review constitutes the review of a judgment that has already entered into force. The petitioner argues in great detail that the supervisory review may not be regarded as an effective remedy, because (1) it is a procedure carried out after the final decision of the court of cassation; (2) it is contrary to the principle of legal certainty and, therefore, cannot be deemed as a mandatory remedy for the purposes of the Convention; and (3) it is ineffective due to the imperative of domestic law, as well as the practice of its application and interpretation. The petitioner adds that, under article 403 of the Criminal Procedure Code, supervisory review in a case where the first instance judgment was rendered by a district court is conducted by the same court of cassation which previously examined the case in question. In the present case, it would be the Pskov Regional Court that has already rendered two decisions on cassation in the petitioner's case, both being not in her favour and on nearly identical grounds. She concluded that it is reasonable to expect that the Pskov Regional Court would not change its position regarding her case should it consider it under the supervisory review procedure.

The complaint

3.1 The petitioner submits that the State party failed to criminalize hate speech and all propaganda based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form. She argues that the Prosecutor's Office of the Pskov Region and subsequently the courts have interpreted article 282 of the Criminal Code as not applicable to propaganda that did not aim *directly* at the incitement to hatred or enmity, in disregard of the Committee's general recommendation No. 15.[d] They repeatedly noted that the leaflets were aimed at inciting hostility of the Roma against the two individuals named in the leaflets. In other words, the State party authorities have not found grounds for prosecuting Ms. Y.L. and Mr. A.K. under article 282 of the Criminal Code for the lack of *direct intent* to incite violence against the Roma. The petitioner submits that article 282 of

[c] Communication No. 25/2002, *Sadic v. Denmark*, inadmissibility decision adopted on 19 March 2003, para. 6.4.

[d] The Committee's general recommendation No. 15 (1993) on rticle 4 (organized violence based on ethnic origin), *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18* (A/48/18), chap. 8, sect. B, para. 3.

the Criminal Code, which applies only to those actions that are accompanied by the direct intent to incite violence and does not cover "all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination", does not comply with the State party's obligations under article 4, paragraph (a) of the Convention.

3.2 The petitioner claims that the State party failed to recognize that every individual of Roma origin has standing as a victim in a case of hate speech and propaganda of racial violence (art. 282 of the Criminal Code) directed against the Roma as an ethnic group, irrespective of where the specific Roma individual has his or her residence. The petitioner further claims that the State party has previously recognized that the case based on the same crime directed against ethnic Russians in the Baltic countries may be initiated in the interest of the ethnic Russians living in the Russian Federation[e] and, thus, discriminated against ethnic Roma over ethnic Russians in the enjoyment of the right to a court and to ethnic identity, in violation of article 5 of the Convention. The petitioner asserts that the rights guaranteed under this article and article 27 of the International Covenant on Civil and Political Rights are collectively referred to as a group and individual right to ethnic identity, which is to be guaranteed without discrimination in accordance with article 5 of the Convention. She submits that her case shows that the Roma as an ethnic group may not be regarded as a victim of hate speech in the Russian Federation, it is rather an individual of Roma origin that either permanently lives or is registered in a specific place that can be regarded as a victim of hate speech in the said place.

3.3 She further submits that the above approach is incompatible with the collective right of the Roma to ethnic identity for the following reasons:

(a) It is not uncommon for the Committee to recognize the victim status of an individual who may be potentially exposed to the racial hatred or humiliation due to his or her national or ethnic origin, as a result of a given hate speech, irrespective of where his or her house is located;[f]

(b) It is within the effective interpretation of the Convention, that hate speech aims at the ethnic group in general rather than at specific individuals. It is within this logic that article 4 of the Convention "categorically condemns group defamation";[g]

(c) As the Committee stated in its general recommendation No. 20, "many of the rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given State",[h] thereby confirming the impossibility to deny protection on the basis of territorial jurisdiction;

[e] On 27 January 1995, the Assistant to the Prosecutor General of the Russian Federation has initiated criminal proceedings (case No. 229120) against Ms. Valeriya Novodvorskaya under article 74 of the Criminal Code of the Russian Soviet Federative Social Republic (violation of equality of citizens on the ground of race, ethnicity or beliefs). According to the indictment of 26 April 1996, Ms. Novodvorskaya has repeatedly made intentional offensive statements in mass media that humiliated the Russians in Estonia, Latvia and Lithuania. The criminal proceedings were initiated by an officer of the Prosecutor's Office in accordance with the powers of the prosecutor to initiate proceedings in the interest of the public.

[f] Communication No. 30/2003, *The Jewish community of Oslo v. Norway*, Opinion adopted on 14 August 2005, para. 7.3.

[g] T.D. Jones, *Human Rights: Group Defamation, Freedom of Expression and 'The Law of Nations'*, (Boston, Martinus Nijhoff, 1998, p. 39.

[h] The Committee's general recommendation No. 20 (1996) on article 5 (non-discriminatory implementation of rights and freedoms), *Official Records of the General Assembly, Fifty-first Session, Supplement No. 18* (A/51/18), annex VIII, para. 3.

(d) The Committee has effectively recognised that the right to legal standing before the courts in cases involving hate speech should be based on self-identification of the individual concerned and, being an aspect of the right to equal treatment before the courts, should be provided to everyone living in a given State (see general recommendation No. 8).[i]

3.4 The petitioner argues that, in breach of article 6 of the Convention, the State party failed to ensure effective judicial review of decisions taken by the administrative bodies, refusing to initiate criminal proceedings in relation to hate speech and propaganda of ethnic violence due to the narrow interpretation of applicable domestic law. As the Committee stated in *L.R. et al. v. Slovak Republic*, a case regarding the right to a remedy allegedly denied to the Roma, "at a minimum, this obligation requires the State party's legal system to afford a remedy in cases where an act of racial discrimination within the meaning of the Convention has been made out, *whether before the national courts or in this case the Committee*".[j] Finally, in the general recommendation No. 27, the Committee recommended the States parties to provide to "members of Roma communities effective remedies and to ensure that justice is fully and promptly done in cases concerning violations of their fundamental rights and freedoms".[k]

3.5 In the present case, the Prosecutor's Office of the Pskov Region repeatedly refused to initiate criminal proceedings to investigate the petitioner's claims on the grounds that the facts described in her application (see paragraphs 2.1 and 2.2. above) did not constitute hate speech. The petitioner submits that she was de facto denied the right of judicial review of the decisions of the Prosecutor's Office of the Pskov Region, because the State party's courts have determined in both court proceedings initiated by her that the legal qualification of the impugned actions could not be a subject of judicial review (see paragraphs 2.14, 2.15 and 2.16 above). The petitioner also argues that the practice of the State party authorities to effectively discontinue the case by adopting numerous identical decisions substituting each other, de facto deprives the victim of an opportunity to seek for judicial review.

State party's observations on the admissibility

4.1 On 25 January 2010, the State party argued that this communication should be declared inadmissible under article 14, paragraph 7, of the Convention for failure to exhaust all available domestic remedies. In particular, the rulings of the Pskov Regional Court of 24 December 2008 (see paragraph 2.15 above) and 25 February 2009 (see paragraph 2.17 above) have not been examined under the supervisory review procedure. In accordance with article 403 of the Criminal Procedure Code, the rulings of the Pskov Regional Court could have been examined under the supervisory review procedure by the Presidium of the Pskov Regional Court, then by the Judicial Chamber for Criminal Cases of the Supreme Court and lastly by the Presidium of the Supreme Court. The State party argued that the supervisory review procedure was an effective domestic remedy. The fact that the petitioner was well aware of this possibility and has deliberately not availed herself of it constitutes an abuse of the right of submission of an individual communication to the Committee.

[i] The Committee's general recommendation No. 8 (1990) on identification with a particular racial or ethnic group (art. 1, paras. 1and 4), *Official Records of the General Assembly, Forty-fifth session, Supplement No. 18* (A/45/18), chap. 7.

[j] Communication No. 31/2003, *L.R. et al.* v. *Slovak Republic*, Opinion adopted on 7 March 2005, para. 10.10.

[k] The Committee's general recommendation No. 27 (2000) on discrimination against Roma, *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 18* (A/55/18), annex V, sect. C, para. 7.

4.2 The State party claimed that the decisions of the Prosecutor's Office of the Pskov Region Nos. 1 and 4 have been "intermediate" and that the final decision on the petitioner's application of 18 July 2008 was adopted on 29 June 2009 (decision No. 6 of the Prosecutor's Office of the Pskov Region). The State party referred to the letter of the Chairperson of the Pskov Regional Court of 15 January 2010, confirming that the petitioner has not appealed in court decision No. 6 of the Prosecutor's Office of the Pskov Region, and added that this avenue was still open to the petitioner. The State party refuted the petitioner's claim that court proceedings in her case have been unreasonably delayed and submitted that the petitioner's appeals have been examined by the courts in conformity with time-limits provided for in articles 227 and 374 of the Criminal Procedure Code.

4.3 The State party submitted that the petitioner's allegations about the persecution of the Roma and lack of legal provisions criminalising incitement to racial or ethnic hatred in the domestic law were unfounded and, in any case, they could not be a subject of an individual communication submitted under article 14 of the Convention. The State party specifically referred to articles 63, 280 and 282 of the Criminal Code, the Law "On Mass Media" and the Federal Law "On the Counteraction of Extremist Activity". With reference to its eighteenth and nineteenth periodic reports under the Convention, replies to the list of issues and follow-up information, the State party stated that it actively cooperated with the Committee, inter alia, on the situation of the Roma and prevention of ethnically motivated crime.

Petitioner's comments on the State party's observations

5.1 On 31 March 2010, the petitioner commented on the State party's observations. She reiterated her earlier arguments related to the issue of effectiveness of the supervisory review procedure (see paragraph 2.21 above) and submitted that the State party has failed to satisfy its burden of proof in demonstrating the effectiveness of such procedure. The petitioner added that a mere statement as to the existence of the remedy and denunciation of the opponent's argument as being subjective was not enough to satisfy the burden of proof. She also submitted that the supervisory review procedure was consistently considered as violating the principle of legal certainty by the European Court of Human Rights (ECHR)[l] and the Human Rights Committee.[m] In this regard, the petitioner argued that the recognition of such procedure as mandatory for the purpose of bringing an international claim would be contrary to the principle of legal certainty and would oblige every potential petitioner in the Russian Federation to exhaust five instances instead of two, thus unnecessarily prolonging the domestic proceedings.

5.2 As to the State party's argument that she did not appeal decision No. 6 of the Prosecutor's Office of the Pskov Region, the petitioner explained that it was obvious to her that the outcome of such an appeal would be negative, in view of the fact that that Prosecutor's Office of the Pskov Region has previously adopted five decisions to the same effect, two of which have been unsuccessfully contested by her in court. The petitioner reiterated her claim that domestic proceedings in her case have been unreasonably delayed (see paragraph 3.5 above) and added, with reference to the jurisprudence of the Human

[l] See, for example, *Petrov v. Russian Federation* (application No. 1861/05), Judgment of 10 August 2007, paragraphs 28–29; *Kot v. Russian Federation* (application No. 20887/03), Judgment of 18 April 2007, paragraph 29; *Fedotova v. Russian Federation* (application No. 1752/02), Judgment of 19 January 2007, paragraphs 25–28; and *Markovtsi and Selivanov v. Russian Federation* (applications Nos. 756/05 and 25761/05), Judgment of 23 October 2009, paragraphs 19–21.

[m] Communication No. 1158/2003, *Blaga v. Romania*, Views adopted on 30 March 2006, para. 6.3.

Rights Committee,[n] that it was unnecessary to appeal the last decision the Prosecutor's Office of the Pskov Region, since it was clear that such an appeal would inevitably be dismissed.

5.3 On the merits, the petitioner reiterated her initial claim that, contrary to the requirements of article 4, paragraph (a), of the Convention, the State party's domestic law criminalises only those acts of incitement to hatred that were committed with direct intent and drew the Committee's attention to the fact that this claim was not addressed by the State party in its observations. She further submitted that the State party did not have a constitutional framework that would limit its duty to criminalise all racist propaganda and, therefore, could not refer to such constitutional framework as a justification for lack of criminalisation of all racist propaganda, including that committed without direct intent. Moreover, article 29 of the Constitution stated that "the propaganda or campaigning inciting social, racial, national or religious hatred and strife should not be allowed. The propaganda of social, racial, national, religious or language superiority should be banned". In the petitioner's view, this provision could not be interpreted as limiting the propaganda that should be subject to criminalisation only to the one accompanied by a direct intent.

State party's further observations on the admissibility

6.1 On 6 December 2010, the State party submitted its further observations on the admissibility and reiterated its position that this communication should be declared inadmissible under article 14, paragraph 7, of the Convention. It stated that the petitioner had a possibility to have the ruling of the Pskov Regional Court of 25 February 2009 reviewed by the Presidium of the Pskov Regional Court under the supervisory review procedure and that her voluntary refusal to avail herself of all available domestic remedies has created legal obstacles for making use of the international procedure for examination of individual communications. The State party rejected the petitioner's argument that the supervisory review procedure was ineffective and submitted that:

(a) The petitioner's reference to the jurisprudence of ECHR (see paragraph 5.1 above) was erroneous, since all the judgments cited by her concerned the issue of the supervisory review procedure in civil proceedings and, therefore, were inapplicable in her case. The State party stated that the supervisory review procedure in civil and criminal proceedings had substantial differences and should be dealt with separately. In particular, under article 410, part 1, of the Criminal Procedure Code, a court examining a case under the supervisory review procedure "was not bound by the issues raised in the appeals for a supervisory review and had a right to examine the criminal case in full";

(b) According to the judgment of ECHR in *Lenskaya v. Russian Federation*,[o] the principle of legal certainty was not absolute. Higher courts' powers to quash or alter binding and enforceable judicial decisions should be exercised for correction of fundamental defects. That power must be exercised so as to strike, to the maximum extent possible, a fair balance between the interests of an individual and the need to ensure the effectiveness of the system of justice. ECHR concluded in *Lenskaya v. Russian Federation* that the errors committed by the courts of first and second instances were sufficient in nature and effect to warrant the reopening of the proceedings. Leaving such errors uncorrected would seriously affect the fairness, integrity and public reputation of the judicial proceedings. ECHR also attributed particular weight to the fact that those judicial

[n] Communication No. 327/1988, *Barzhig v. France*, Views adopted on 11 April 1991, para. 5.1.

[o] *Lenskaya v. Russian Federation* (application No. 28730/03), Judgment of 29 April 2009, paragraphs 30–32 and 40.

errors could not be neutralised or corrected by any other means, save by the quashing of the earlier judgments. In such circumstances, the quashing of the final judgment was a means of indemnifying the convicted person for mistakes in the administration of the criminal law.

6.2 The State party submitted a copy of the legal opinion of 8 September 2010 approved by the Deputy Prosecutor of the Pskov Region, according to which the Prosecutor's Office did not find any grounds to request the reopening of court proceedings under the supervisory review procedure in relation to the petitioner's application.

6.3 The State party challenged an attempt by the petitioner's counsel to confer the powers of judicial body on the Committee in, inter alia, placing a burden of proof on the State party and suggesting that it had to address all of the petitioner's claims. It recalled that the mandate of the Committee, as a non-judicial human rights treaty body, was to examine individual communications alleging human rights violations and to transmit its opinions to the State party concerned and the petitioner.

6.4 The State party submitted that the subject matter of the petitioner's communication to the Committee, that is, alleged incompliance by the State party with its obligations under article 4, paragraph (a), of the Convention and the situation of the Roma, fell outside the scope of the individual communications procedure under article 14 of the Convention and could be dealt with only within the reporting procedure under article 9 of the Convention. The State party added that the situation of ethnic minorities, in particular the Roma, was not a part of the petitioner's claims at the domestic level and, therefore, could not be examined under the Committee's individual communications procedure.

6.5 The State party submitted that the domestic law in force established liability for crimes committed on the grounds of political, ideological, racial, ethnic or religious hatred or enmity, as well as on the grounds of hatred or enmity against a particular social group. In support of its statement, the State party cited relevant provisions of the Constitution, the Federal Law "On the Counteraction of Extremist Activity", Criminal Code, Code of Administrative Offences, etc.[p] The State party specifically referred to articles 63, 280 and 282 of the Criminal Code, the Law "On Mass Media" and the Federal Law "On the Counteraction of Extremist Activity".

6.6 In conclusion, the State party reiterated its position that this communication should be declared inadmissible for (1) failure to exhaust all available domestic remedies; and (2) abuse of the right of submission of an individual communication to the Committee.

6.7 On 2 June 2011, State party submitted its further observations. It reiterated the facts summarised in paragraphs 2.3–2.4 and 2.9 above and added that the petitioner, a social worker of the Anti-Discrimination Centre "Memorial", situated in St. Petersburg, was on her business trip in the town of Opochka when she had found the leaflet written by Ms. Y.L. The State party recalled that the leaflet contained an appeal to expel the representatives of the Roma community residing on the territory of the town of Opochka, Pskov Region and listed the names of its presumed authors, Mr. I.B. and Mr. I.F.

6.8 The State party submitted that, at the time of the first investigation in relation to the petitioner's application of 18 July 2008, Ms. Y.L. and Mr. A.K. explained that they

[p] Reference is made to articles 13, paragraph 5, and 29, paragraph 2, of the Constitution; articles 1, 13 and 15 of the Federal Law "On the Counteraction of Extremist Activity"; articles 63, 148, 149, 150, 213, 214, 243, 244, 280 282, and 282.1 of the Criminal Code; article 20.29 of the Code of Administrative Offences; and Decree of the Prosecutor General No. 362 of 19 November 2009 "On the Establishment of Supervision by the Prosecutor's Office over the Compliance with Legislation on the Counteraction of Extremist Activity".

perceived their actions as a mean joke with the aim of causing harm to Mr. I.B. and Mr. I.F. through expected actions of the representatives of the Roma community and that they did not intend to incite enmity between the Roma and the Russians. Furthermore, they did not participate in any organizations that propagandized violence against the Roma or against any other nationalities and they had friends of Roma ethnicity.

6.9 The State party referred to the linguistic examination report of 30 October 2008, according to which the text of one of the leaflets with the appeals for violence against the Roma contained the expressions which could be characterized as "extremist", since it called for violent acts against the persons of another nationality or ethnic origin. According to this report, there were no semantic features of the same kind in the other leaflets. At the same time, several expressions and phrases in the text of the leaflets contained insults on the rounds of nationality or race.

6.10 The State party reiterated the conclusion of the investigating authorities that there had been no elements of crimes proscribed by article 280, part 1, and article 282, part 1, of the Criminal Code in the actions of Ms. Y.L. and Mr. A.K. It stated that, in accordance with article 282 of the Criminal Code, actions amount to incitement to hatred or enmity, as well as to abasement of human dignity if they pursue the aim of attaining the desired outcomes. Actus reus of the crime prescribed active influence upon will and mind of people by public actions intended at incitement of hatred or enmity, or at origin of determination and eagerness to act in such a way or furtherance of present intention. Mens rea of the crime prescribed only direct intent and, therefore, any incidental emotional manifestation of discontent or pursuit of other aims could not amount to incitement of hatred or enmity, as well as to abasement of human dignity.

6.11 The State party submitted that the analysis of the investigation materials proved that Ms. Y.L. produced and Mr. A.K. distributed the leaflets with the aim of informing the Roma and not the general public about their content. The fact that the leaflets were distributed in the area predominantly populated by the Roma, in particular in the courtyard Ms. L.U.'s house, supported this conclusion. Therefore, the actions did not intend to be addressed to the individuals of other ethnic origin and did not appeal to acts of violence against the Roma.

6.12 The State party explained that its law defined "call" as an active influence upon mind and will of people with the aim of encouraging them to commit violent acts of seizure of power, retention of power or change of the constitutional system, etc. "Publicity" of actions, which was prescribed by article 280 of the Criminal Code, presupposed that the appeals were addressed to the general public. The most typical examples of the "publicity" were speeches and presentations held in meetings, rallies and other public activities, proclaiming extremist slogans during demonstrations, processions, pickets and etc. Moreover, it should be established that the public accepted the appeals.

6.13 The State party reiterated its argument that the content of the leaflets was in fact addressed to representatives of the Roma community. Ms. Y.L. and Mr. A.K. did not pursue the goal of stirring up a conflict between members of different ethnic groups and nationalities residing in the town of Opochka. Furthermore, the fact that the leaflets were distributed in the area predominantly populated by the Roma and, in particular, in the courtyard of Ms. L.U.'s house, did not satisfy the requirement of "publicity" of actions provided for in article 280 of the Criminal Code.

6.14 The State party submitted that the actions of Ms. Y.L. and Mr. A.K. were prompted by their intent to cause harm only to Mr. I.B. and Mr. I.F. through the actions of the Roma. This conclusion, in the State party's view, was confirmed by the textual content of the leaflets, in which Mr. I.B. and Mr. I.F. were singled out from the titular ethnic group as the representatives of the "white brothers". Therefore, the intentions of Ms. Y.L. and Mr. A.K.

to initiate the conflict between the representatives of the Roma community and Mr. I.B. and Mr. I.F. did not imply that their goal was to incite hatred between different ethnic groups on the ground of nationality, since there was a dominant motivation to take vengeance on the concrete individuals.

6.15 The State party added that two individuals residing in the proximity of the area where the leaflets had been found explained that they did not belong to the Roma community. They were unaware of the distribution of the leaflets threatening the Roma and did not see them. No other individuals with the knowledge of the distribution of the leaflets, except for Ms. L.U., have been identified as a result of the house-to-house tour of the area where the leaflets in question had been found. When questioned, Ms. L.U. explained that when she had found the leaflets in the courtyard of her house, she thought that somebody could do harm to her and brought those leaflets to the militia office. However, she did not receive any threats. Moreover, she was unaware of any facts of discrimination of the Roma in Opochka area. Afterwards she got to know that "the leaflets were written by a girl, who wished to cause harm to two guys". The State party stated that even though Ms. L.U. did not have any complaints in respect to anyone, she was explained her right to apply to the justice of the peace with the request to initiate proceedings under article 130 of the Criminal Code.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee on the Elimination of All Forms of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention, whether or not the communication is admissible.

7.2 The Committee notes that the Pskov Regional Court found on 25 February 2009 that the petitioner did not have legal standing in the case, as she "lived and worked in St. Petersburg, was officially registered as residing in Vlesno village of the Krasnogorodsk district of the Pskov region", whereas the leaflets at issue in the present communication were found only in the town of Opochka and were clearly intended for a local readership (see paragraph 2.1 above). The Committee also notes that the Prosecutor's Office conducted investigations into the petitioner's complaint on six separate occasions and that each investigation came to the conclusion that the facts of the case revealed that the leaflets were meant to target and expose the two individuals who were named as authors of the leaflets. The Committee recalls its established jurisprudence[q] that in order for an individual to be able to claim to be a victim of a violation of any of the rights guaranteed in the Convention, he or she should be directly and personally affected by the action (or the omission) in question. Any other conclusion would open the door for litigation of a general nature without identifiable victims (*actio popularis*)[r] and, therefore, fall outside the scope of the individual communications procedure established under article 14 of the Convention. With reference to the above, the Committee considers that the petitioner cannot qualify as a victim since the content of the leaflets has not directly and personally affected her. The communication is therefore inadmissible *ratione personae* under article 14, paragraph 1, of the Convention.

[q] Communication No. 28/2003, *Documentation and Advisory Centre on Racial Discrimination v. Denmark*, Inadmissibility decision adopted on 19 August 2003, para. 6.6.

[r] Ibid.

7.3 Having come to this conclusion, the Committee does not consider it necessary to address the other issues raised by the parties regarding the admissibility of the communication.

7.4 Although the Committee considers that it is not within its competence to examine the present communication,[s] it takes note of the racist and xenophobic nature of the actions of the identified author of the leaflets that had been found in the town of Opochka, Ms. Y.L., as well as of her identified accomplice, Mr. A.K., and reminds the State party of its obligations under articles 4 and 6 of the Convention to prosecute ex officio all statements and actions which attempt to justify or promote racial hatred and discrimination in any form, regardless of whether or not there was a formal request from the alleged victim(s) to initiate criminal proceedings under article 282 of the Criminal Code. The Committee also takes the opportunity to remind the State party of its concluding observations, following consideration of the State party's periodic report in 2008, in which it had commented and made recommendations upon: (a) the alarming increase in the incidence and severity of racially motivated violence against the Roma; (b) the increase of racist and xenophobic attitudes especially among young Russians; and (c) the absence of information on complaints or court decisions in civil or administrative, as well as criminal proceedings, concerning acts of racial discrimination.[t] It, therefore, encourages the State party to follow-up on its recommendations and to provide pertinent information on the above concerns in the context of the Committee's procedure for follow-up to its concluding observations.

8. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible *ratione personae* under article 14, paragraph 1, of the Convention.

(b) That this decision shall be communicated to the State party and to the petitioner.

[Adopted in English, French, Spanish and Russian, the English text being the original version. Subsequently to be issued also in Arabic and Chinese as part of the present report.]

[s] Communication No. 37/2006, *A.W.R.A.P. v Denmark*, Opinion adopted on 8 August 2007, para. 6.5.

[t] CERD/C/RUS/CO/19, paras. 18, 28 and 29.

Annex IV

Follow-up information provided in relation to cases in which the Committee adopted recommendations

This annex compiles information received on follow-up to individual communications since the last annual report,[a] as well as any decisions made by the Committee on the nature of those responses.[b]

State party	Denmark
Case	Saada Mohamed Adan, 43/2008
Opinion adopted on	13 August 2010
Issues and violations found	Lack of effective inquiry to determine whether the petitioner has suffered discrimination on the base of race: violation of article 2, paragraph 1 (d), and article 4 of the Convention. The failure to effectively investigate the petitioner's complaint under article 266 (b) of the Criminal Code constitutes a separate violation under article 6 of the Convention.
Remedy recommended	The Committee recommended the State party to grant the petitioner adequate compensation for the moral injury caused by the above-mentioned violations of the Convention. The Committee recalled its general recommendation No. 30 which recommends that States parties take "resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of race, colour, descent, and national or ethnic origin, members of 'non-citizen' population groups, especially by politicians ..." Taking into account the Act of 16 March 2004, which, inter alia, introduced a new provision in section 81 of the Criminal Code whereby racial motivation constitutes an aggravating circumstance, the Committee recommended that the State party should ensure that the existing legislation is effectively applied so that similar violations do not occur in the future. The State party was also requested to give wide publicity to the Committee's opinion, including among prosecutors and judicial bodies.
Date of examination of report/s since adoption	The State party's eighteenth and nineteenth periodic reports were examined in August 2010; the twentieth and twenty-first reports are due in 2013.[c]

[a] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 18* (A/65/18).

[b] It should be mentioned that in its last concluding observations to the State party in August 2010 (CERD/C/DNK/CO/18-19), the Committee noted the following:

Due date for State party response	25 February 2011
Date of reply	13 December 2010, 27 June 2011
State party's observations	The State party informs the Committee that its Government has found it reasonable to pay compensation for any equitable costs a petitioner may have had to pay for legal assistance during the complaints procedure. Act No. 940 on Legal Aid for the Submission and Conducting of Complaints before International Treaty Bodies under Human Rights Conventions (December 1999) guarantees legal aid to cover equitable costs in all cases where the international complaints body requests the State party to provide observations on a complaint. The petitioner in the present case has received DKr 45,000, i.e. approximately 8,300 US dollars. The State party explains that its Government is ready to pay compensation for any pecuniary damage the petitioner may have suffered, in accordance with the general principle on such compensation under Danish law. In this case, however, the petitioner did not suffer any such damage. As to compensation for non-pecuniary damage, including for moral damages, the State party explains that, after careful consideration, its Government has found that the alleged discrimination acts against the petitioner are not of such nature to require payment of compensation. In reaching this conclusion, the Government has attached great importance to the fact that, unlike in previous cases (*L.K. v. the Netherlands* or *Habassi v. Denmark*), in the present case the statements made by Mr. Espersen in a

"The Committee while taking note of the State party's efforts to encourage reporting of hate crimes through the preparation of guidelines on the handling of cases under section 266b of the Criminal Code, it is concerned with the broad powers of the Director of Public Prosecutions to stop investigations, withdrawal of charges or discontinue cases. The Committee is also concerned with the large number of cases that have been discontinued by the Director of Public Prosecution which would discourage reporting by victims. The Committee is also concerned with the current proposals by various politicians to repeal section 266b but welcomes the assurances by the State party that the provision will not be repealed. The Committee is also concerned with the large number of complaints it receives under its Communications procedure that is provided for under article 14 of the Convention, that mainly focus on hate crimes (art. 4 (a) and (6)).

The Committee recommends that the State party should limit the powers of the Director of Public Prosecutions by establishing an independent and multicultural oversight body to assess and oversee the decisions taken by the Director of Public Prosecutions with regard to cases under section 266b to ensure that discontinuance of cases does not discourage victims from lodging complaints or promote impunity by perpetrators of hate crimes. In line with general recommendation 31 (2005), the Committee urges the State party to resist calls to repeal section 266b which will compromise the efforts and gains that the State party has achieved in combating racial discrimination and hate crimes."

radio broadcast did not target the petitioner personally. The State party contends that in the present case the findings of the Committee constitute a sufficient and just satisfaction for the petitioner.

The State party further refers to the follow-up procedure in connection to the case of *Mohamed Hassan Gelle v. Denmark* (No. 34/2004) and recalls that there also it decided not to pay compensation for non-pecuniary damage, inter alia because the discrimination actions were not aimed at the petitioner personally. In the case of Mr. Gelle, the Committee has found the State party's reply to be satisfactory and concluded the scrutiny under the follow-up procedure.

On the effective application of existing legislation, the State party points out that, according to section 99 of the Administration of Justice Act, the Director of Public Prosecutions is superior to the rest of the prosecutors and supervises them. Thus, he is entitled to issue rules regarding the prosecutors' work, and can also intervene in particular cases and give orders whether to have the matter prosecuted or not. The Director of the Public Prosecutions has issued Instruction No. 9/2006 on the handling of cases concerning violations of, inter alia, section 266b of the Danish Criminal Code. The Instruction stipulates that all complaints under section 266b of the Criminal Code rejected by the police, on the ground that there is no basis for initiating an investigation or continuing with investigations already opened, must be submitted to the Regional Prosecutor. Decisions of the Regional Prosecutor to uphold the police conclusions may be appealed before the Director of the Public Prosecutors. According to the Instruction, all cases in which a preliminary charge has been laid are submitted to the Director of the Public Prosecutors for determination of the final charges.

The State party explains that the Director of the Public Prosecutions is currently evaluating whether there is a need to modify Instruction No. 9/2006. The Public Prosecutions Director was provided with the Committee's opinion in the present case, with a request to take it into consideration when revising the said instruction.

Finally, the State party reports that, in addition to the Director of Public Prosecutions, the Committee's opinion has also been forwarded to the Regional Public Prosecutor of Copenhagen and the Chief of the Police in Copenhagen, i.e. the three authorities of the Public Prosecution Service involved in the case.

The Committee's opinion was also sent to the Danish National Police and the Danish Court of Administration, and thus the prosecution and the judicial bodies have been informed of the Committee's findings. The State party has also informed the petitioner's representative of the measures taken to give effect to the Committee's

recommendations.

Petitioner's comments

The petitioner's representative provided his comments to the State party's observations on 28 February 2011. He notes, firstly, that the State party's refusal to grant compensation in the present case is not a precedent, and that in the cases of Mr. Gelle, communication No. 34/2004, and Mr. Murat Er, communication No. 40/2007, the situation was similar, and no non-pecuniary damages were compensated.

Counsel considers the State party's argumentation on the payment of legal aid in the present case to be irrelevant to the Committee's recommendation for a compensation for damages, and points out that no redress can be obtained through legal aid. Secondly, the State party's refusal to grant compensation for non-pecuniary damages, on the basis that the nature of the alleged discrimination in the present case does not permit a payment of compensation, shows, according to the counsel, that the State party confuses two issues. According to the counsel, it is irrelevant to verify whether the radio speech of Mr. Espersen targeted the petitioner personally. The moral damages suffered by the petitioner were not due to the speech itself, but to the State party's failure to react effectively. Mr. Espersen's speech, in substance, was never examined by a court. And, as established by the Committee in its opinion, the State party has failed to fulfil its positive obligations to take effective action in the matter. Therefore, according to counsel, the moral damages suffered by the petitioner are imputable to the State party.

Counsel adds that the State party has failed to give any consideration to the Committee's conclusions on the merits of the case, in particular the Committee's conclusion that the petitioner is also a victim of a violation of his rights by the State party, under article 6 of the Convention.

As to the previous cases quoted by the State party as examples of satisfactory follow-up replies, the counsel notes that the term "satisfactory" here should be understood as implying that no further correspondence is needed, without necessarily meaning that the Committee was satisfied with the measures taken.

On the issue of the effective application of existing legislation and no occurrence of similar violations in future, counsel notes that the Director of the Public Prosecution has informed him that Instruction No. 9/2006 is currently being revised and that the Committee's opinion would form part of the considerations in this respect. The counsel explains however, that he is unaware of the envisaged changes, but notes that the Committee's opinions in *Mohammed Hassan Gelle v. Denmark* or *Saada Adan v. Denmark* also could, but have not, served as a basis to

	avoid similar subsequent violations to occur. On the publicity of the Committee's opinion, counsel notes that the State party has circulated the opinion to the Police, prosecutors and the Central Court of Administration. According to him, however, this is does not correspond to the Committee's request, i.e. to have the opinion widely disseminated, including, but not limited to, judicial bodies. Counsel requests the Committee to intervene and explain to the State party that its reply is unsatisfactory and that the measures taken are insufficient to comply with its recommendations.
Additional reply by the State party	On 27 June 2011, the State party reiterates the information contained in its previous reply of December 2010 on the measures taken to give effect to the Committee's opinion. On the issue of compensating the petitioner, the State party recalls that legal aid for an amount of 45,000 DKr (8,300 US dollars) was paid in the present case. No pecuniary damage was suffered by the complainant in this case. After careful examination of the case, the State party's Government found that the discrimination suffered by the complainant was not of such nature to require a payment of an additional compensation to the complainant. In doing so, the Government took into account that, unlike in other cases dealt by the Committee, in the present case the petitioner was never targeted personally in radio broadcasts. The Committee's opinion was considered to constitute a just satisfaction in this case. The State party also notes that in a similar case, *Mohammed Hassan Gelle v. Denmark*, the State party did not pay any compensation and the Committee found the State party's reply satisfactory. Thus, the State party has carefully considered the issue on compensating the petitioner for non-pecuniary or moral damages, and has found that there were no grounds to do so.
Additional comments from the author	On 20 July 2011, petitioner's counsel notes that the State party has only repeated its previous observations of December 2010. Counsel considers that the State party has failed to provide any valid legal argument for not paying compensation. He considers that the State party's position is due to political considerations and asks the Committee to continue the follow-up dialogue with the State party.
Action taken by the Committee	The counsel's latest submission was sent to the State party on 2 August 2011.
Proposed further action and/Committee's decision	The Committee may decide to close the follow-up examination of the case, noting the counsel's concerns,

but considering that the State party's reply is partly satisfactory.

Annex V

Documents received by the Committee at its seventy-eighth and seventy-ninth sessions in conformity with article 15 of the Convention

The following is a list of the working papers referred to in chapter VIII submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

A/AC.109/2011/1	Western Sahara
A/AC.109/2011/2	Anguilla
A/AC.109/2011/3	Tokelau
A/AC.109/2011/4	Pitcairn
A/AC.109/2011/5	Bermuda
A/AC.109/2011/6	British Virgin Islands
A/AC.109/2011/7	Saint Helena
A/AC.109/2011/8	Cayman Islands
A/AC.109/2011/9	United States Virgin Islands
A/AC.109/2011/10	Turks and Caicos Islands
A/AC.109/2011/11	Montserrat
A/AC.109/2011/12	American Samoa
A/AC.109/2011/13	Gibraltar
A/AC.109/2011/14	Falkland Islands (Malvinas)
A/AC.109/2011/15	Guam
A/AC.109/2011/16	New Caledonia

Annex VI

Country Rapporteurs for reports of States parties considered by the Committee and for States parties considered under the review procedure at the seventy-eighth and seventy-ninth sessions

Periodic reports considered by the Committee	*Country rapporteur*
Albania Fifth to eighth periodic reports (CERD/C/ALB/5-8)	Mr. Kut
Armenia Fifth and sixth periodic reports (CERD/C/ARM/5-6)	Mr. Diaconu
Bolivia (Plurinational State of) Seventeenth to twentieth periodic reports (CERD/C/BOL/17-20)	Mr. Avtonomov
Cuba Fourteenth to eighteenth periodic reports (CERD/C/CUB/14-18)	Mr. Murillo Martínez
Czech Republic Eighth and ninth periodic reports (CERD/C/CZE/8-9)	Ms. Crickley
Georgia Fourth and fifth periodic reports (CERD/C/GEO/4-5)	Mr. Diaconu
Ireland Third and fourth periodic reports (CERD/C/IRL/3-4)	Mr. Amir
Kenya Initial to fourth periodic reports (CERD/C/KEN/1-4)	Mr. Peter
Lithuania Fourth and fifth periodic reports (CERD/C/LTU/4-5)	Mr. Peter
Maldives Fifth to twelfth periodic reports (CERD/C/MDV/5-12)	Mr. Huang
Malta Fifteenth to twentieth periodic reports (CERD/C/MLT/15-20)	Mr. Saidou
Norway Nineteenth and twentieth periodic reports	Mr. de Gouttes

(CERD/C/NOR/19-20)	
Paraguay Initial to third periodic reports (CERD/C/PRY/1-3)	Mr. de Gouttes
Republic of Moldova Eighth and ninth periodic reports (CERD/C/MDA/8-9)	Mr. Thornberry
Rwanda Thirteenth to seventeenth periodic reports (CERD/C/RWA/13-17)	Mr. Ewomsan
Serbia Initial report (CERD/C/SRB/1)	Mr. Kut
Spain Eighteenth to twentieth periodic reports (CERD/C/ESP/18-20)	Mr. Cali Tzay
Ukraine Nineteenth to twenty-first periodic reports (CERD/C/UKR/19-21)	Mr. Thornberry
United Kingdom Eighteenth to twentieth periodic reports (CERD/C/GBR/18-20)	Mr. Lahiri
Uruguay Sixteenth to twentieth periodic reports (CERD/C/URY/16-20)	Mr. Lahiri
Yemen Seventeenth to eighteenth periodic reports (CERD/C/YEM/17-18)	Mr. Prosper

States parties which had been scheduled for review, but in respect of which the review was cancelled or postponed

Belize (committed to submit a report soon after the seventy-ninth session)

Jordan (submitted report prior to seventy-ninth session)

Viet Nam (submitted report prior to seventy-ninth session)

Annex VII

List of documents issued for the seventy-eighth and seventy-ninth sessions of the Committee[a]

CERD/C/78/1/Rev.1	Provisional agenda and annotations of the seventy-eighth session of the Committee
CERD/C/78/2	Status of submission of reports by States parties under article 9, paragraph 1, of the Convention
CERD/C/79/1	Provisional agenda and annotations of the seventy-ninth session of the Committee
CERD/C/79/2	Status of submission of reports by States parties under article 9, paragraph 1, of the Convention
CERD/C/79/3	Consideration of copies of petitions, copies of reports and other information relating to trust and non-self-governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/SR.2050–2088	Summary records of the seventy-eighth session of the Committee
CERD/C/SR.2089–2099 and Add.1, 2100–2125 and Add.1	Summary records of the seventy-ninth session of the Committee
CERD/C/ARM/CO/5-6	Concluding observations of the Committee on the Elimination of Racial Discrimination – Armenia
CERD/C/BOL/CO/17-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – Plurinational State of Bolivia
CERD/C/CUB/CO/14-18	Concluding observations of the Committee on the Elimination of Racial Discrimination – Cuba
CERD/C/IRL/CO/3-4	Concluding observations of the Committee on the Elimination of Racial Discrimination – Ireland
CERD/C/LTU/CO/4-5	Concluding observations of the Committee on the Elimination of Racial Discrimination – Lithuania
CERD/C/NOR/CO/19-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – Norway
CERD/C/MDA/CO/8-9	Concluding observations of the Committee on the Elimination of Racial Discrimination – Republic of Moldova

[a] This list only concerns documents issued for general distribution.

CERD/C/RWA/CO/13-17	Concluding observations of the Committee on the Elimination of Racial Discrimination – Rwanda
CERD/C/SRB/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination – Serbia
CERD/C/ESP/CO/18-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – Spain
CERD/C/URY/CO/16-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – Uruguay
CERD/C/YEM/CO/17-18	Concluding observations of the Committee on the Elimination of Racial Discrimination –Yemen
CERD/C/ALB/CO/5-8	Concluding observations of the Committee on the Elimination of Racial Discrimination – Albania
CERD/C/CZE/CO/8-9	Concluding observations of the Committee on the Elimination of Racial Discrimination – Czech Republic
CERD/C/GEO/CO/4-5	Concluding observations of the Committee on the Elimination of Racial Discrimination – Georgia
CERD/C/KEN/CO/1-4	Concluding observations of the Committee on the Elimination of Racial Discrimination –Kenya
CERD/C/MDV/CO/5-12	Concluding observations of the Committee on the Elimination of Racial Discrimination – Maldives
CERD/C/MLT/CO/15-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – Malta
CERD/C/PRY/CO/1-3	Concluding observations of the Committee on the Elimination of Racial Discrimination – Paraguay
CERD/C/UKR/CO/19-21	Concluding observations of the Committee on the Elimination of Racial Discrimination – Ukraine
CERD/C/GBR/CO/18-20	Concluding observations of the Committee on the Elimination of Racial Discrimination – United Kingdom
CERD/C/ARM/5-6	Fifth and sixth periodic reports of Armenia
CERD/C/BOL/17-20	Seventeenth to twentieth periodic reports of the Plurinational State of Bolivia
CERD/C/CUB/14-18	Fourteenth to eighteenth periodic reports of Cuba
CERD/C/IRL/3-4	Third and fourth periodic reports of Ireland
CERD/C/LTU/4-5	Fourth and fifth periodic reports of Lithuania
CERD/C/NOR/19-20	Nineteenth and twentieth periodic reports of Norway
CERD/C/MDA/8-9	Eighth and ninth periodic reports of Republic of Moldova
CERD/C/RWA/13-17	Thirteenth to seventeenth periodic reports of Rwanda
CERD/C/SRB/1	Initial report of Serbia
CERD/C/ESP/18-20	Eighteenth to twentieth periodic reports of Spain

CERD/C/URY/16-20	Sixteenth to twentieth periodic report of Uruguay
CERD/C/YEM/17-18	Seventeenth to eighteenth periodic reports of Yemen
CERD/C/ALB/5-8	Fifth to eighth periodic reports of Albania
CERD/C/CZE/8-9	Eighth to ninth periodic reports of Czech Republic
CERD/C/GEO/4-5	Fourth to fifth periodic reports of Georgia
CERD/C/KEN/1-4	Initial to fourth periodic reports of Kenya
CERD/C/MDV/5-12	Fifth to twelfth periodic reports of Maldives
CERD/C/MLT/15-20	Fifteenth to twentieth periodic reports of Malta
CERD/C/PRY/1-3	Initial to third periodic reports of Paraguay
CERD/C/UKR/19-21	Nineteenth to twenty-first periodic reports of Ukraine
CERD/C/GBR/18-20	Eighteenth to twentieth periodic reports of United Kingdom

Annex VIII

Comments of States parties on the concluding observations adopted by the Committee

A. Fourth and fifth periodic reports of Georgia

1. The following comments were sent on 20 September 2010 by the Permanent Representative of Georgia to the United Nations concerning the concluding observations adopted by the Committee following the consideration of the fourth and fifth periodic reports submitted by the State party:[a]

> "In this document Georgia presents its position and comments in respect of certain observations made and recommendations received in the Concluding Observations of the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD), adopted following its consideration of Georgia's fourth and fifth consolidated periodic report at its 79th session in August 2011.
>
> "The Government of Georgia, deriving from paragraph 8, welcomes the acknowledgment of the Committee that the third state that exercises effective control of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, has a responsibility to observe and implement the Convention in these regions. Hence, the Russian Federation bears responsibility for the respect, observance and implementation of the Convention in the occupied regions of Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia. Georgia, on its behalf, remains committed to report about undertaken efforts originating from its positive obligations *vis-à-vis* occupied regions of Georgia.
>
> "The Committee, in paragraph 11, recommended Georgia to include specific provisions prohibiting expression of racial hatred/incitement to racial discrimination. The Law of Georgia on Freedom of Expression represents a fare balance between high standards of freedom of expression and legitimate grounds when this freedom shall be restricted. Article 4 of this Law prohibits (entails liability for) incitement (including hate speech) as an intentional action of a person that creates a direct and substantial danger of an illegal consequence. This type of liability is present in article 142^1 of the Criminal Code of Georgia that penalizes any act or omission that instigates animosity or conflict based on racial/ethnic grounds.
>
> "In Paragraph 13 the Committee expresses its concern at allegation of arbitrary arrests and ill-treatment of members of minority groups and foreigners, whose vulnerability stems in part from their lack of knowledge of the Georgian language. The Government of Georgia underscores that during the reporting period, no cases of arbitrary arrest and/or ill-treatment of members of minority groups or foreigners have been reported, while Georgian legislation safeguards the right to interpreter during the criminal proceedings for persons not knowing or lacking sufficient knowledge of Georgian language. In this regard, the relevant state authorities have not received complaints alleging violation of the aforementioned procedural safeguard. At the same time, the Government of Georgia remains committed to take

[a] For the text of the concluding observations, see paragraph 45 above.

all appropriate and necessary measures prescribed by the legislation in case of such incidents.

"The Committee, in paragraph 13 also calls upon Georgia to reconsider the negative repercussion of past land reforms. In Georgia, any reform and measures undertaken in relation to land are prescribed by law and are based as well as implemented in due respect of the principle of non-discrimination. In addition, during the 2005-2006 land reform, persons living in villages (including in Kvemo Kartli) were given *a preferential treatment* to buy lands in their vicinity for a symbolic amount of money *via* specially organized auctions.

"In paragraph 14 the Committee expresses its concerns at reports that after 2008 armed conflict members of some minorities have been depicted as 'enemies'. The Government of Georgia underscores that during the reporting period no such cases have been reported or identified. The same observation is corroborated in the number of reports from various international organizations.

"In particular, the *OSCE* has observed that 'the August 2008 war did not lead to a change of the situation of ethnic Ossetians in Georgian controlled territory or to their long-term displacement in any significant numbers. The population of ethnically mixed villages in the adjacent areas to the administrative boundary line of the former Autonomous District of South Ossetia has not raised any concerns over discrimination. On the contrary, first-hand reports testify to mutual support among neighbours of different ethnic background during wartime.'[b]

"*The Advisory Committee on the Framework Convention for the Protection of National Minorities* finds that the armed conflict of August 2008 does not seem to have seriously affected inter-ethnic relations in Georgia in the areas under Government control and that co-existence between the majority and the various national minorities is free of conflict on the whole.[c]

"*The European Commission against Racism and intolerance (ECRI)* also notes that representatives of ethnic minorities, including ethnic Russians and ethnic Ossetians, do not complain of any particular form of discrimination or hate speech on the part of members of the majority population.[d]

"The Committee, in paragraph 14 also recommends Georgia to '*[remove] derogatory or insulting references to minorities in school textbooks*'. Georgia hereby clarifies that prior to obtaining a status of a textbook an authorization of the Ministry of Education and Science of Georgia is required. The process of authorization is regulated by the Order of the Minister for Education and Science on 'the Certification of Textbooks'.[e] Pursuant to Article 10 of the Order every textbook is assessed prior to certification. According to the same article, a textbook is not certified if its content or design, or any other element discriminates or/and discredits on any of the following basis: language, nationality, sex, ethnicity, social status, etc.

[b] The Report on the situation of Ossetians in Georgia outside the former Autonomous District of South Ossetia the OSCE Mission to Georgia as tasked by the Second Working Group on IDPs and Refugees of the Geneva Discussions at its third round on 17-18 December 2008. p. 4.

[c] Opinion on Georgia; Advisory Committee on the Framework Convention for the Protection of National Minorities March 19, 2009; paragraph 181.

[d] The European Commission against Racism and intolerance; the Report on Georgia (fourth monitoring cycle), April 28, 2010, and Published on 15 June 2010, Paragraph 53.

[e] Order N 30/N, adopted on February 25, 2011.

Therefore, textbooks that include any derogative or discriminative passages are not certified by the Ministry of Education and Science of Georgia and thus cannot be used in schools.

"Moreover, Ministry of Education and Science is closely cooperating with the Embassies of Azerbaijan and Armenia in translating Georgian textbooks into minority languages. This process includes checking of the accuracy of translation by experts in the Embassies. As for today, no discriminatory or insulting references have been found by these experts.

"In paragraph 16, the Committee encourages Georgia to adopt specific legislation to protect minorities. ICERD does not oblige State Parties to enact a stand-alone legislation concerning minorities. Notwithstanding this, during the reporting period, Georgia has introduced number of amendments to different laws with the view of prohibiting discrimination instead of introducing a single framework law. Apart from Georgian Constitution, relevant laws safeguard minorities without discrimination are: Criminal Code of Georgia (Art. 109, 117, 126, 147, 258), Labor Code (Art. 2), Health-care Law (Art. 19), Law on Broadcasting (Art. 33), Electoral Code (Art. 53, 54, 55), Law on Education (Art. 4, 7), Law on Higher Education; as well as recently enacted Criminal Procedure Code and Code on Imprisonment in line with international human rights standards.

"In paragraph 18, in referring to the persons forcefully deported from Georgia by the USSR authorities in 1940s, the Committee, several times designates them as 'Meskhetian Turks'. Whereas the first word of this formulation originates from the geographic name of the Georgian region where these persons resided, the second implies their ethnic belongingness to the Turkish ethnicity. Based on the reality that the persons in question are in fact of various ethnic, religious and cultural backgrounds, and in line with the Committee's General Recommendation No. 8 (1990), Georgia considers that the identification of any group of persons shall be based upon self-identification by each and every individual from the group concerned. Georgia further considers that the Committee's previous concluding observations, where the named persons are referred as 'Meskhetians',[f] are based on the same understanding.[g]

In paragraph 18, the Committee notes its concern at reports that only a small number of persons deported by the USSR in 1944 have been granted repatriation status. Georgia hereby noted that the process of granting repatriate's status is ongoing and in line with its internationally agreed commitments, Georgia will complete this process by 2012.

"Also in paragraph 18, the Committee further notes that "Meskhetian Turks have never been compensated for their loss of property" and recommends Georgia to 'consider providing compensation to the repatriated persons for the loss of property when they were deported.' In this regard, Georgia does not consider itself to be under the obligation for such compensation, since, according to the general principles of law, an obligation for any compensation for an injury or loss shall be

[f] Concluding observations of the Committee on the Elimination of Racial Discrimination CERD/C/GEO/CO/3 of 27 March 2007, paragraph 15; Concluding observations of the Committee on the Elimination of Racial Discrimination CERD/C/304/Add.120 of 27 April 2001 paragraph 14.
Similarly, the documents of other international organizations referring to the named persons, use formulations not determining their ethnicity.

borne by the injuring party. Georgia is not a successor of the former USSR, cannot be considered as such under the international law on state succession, and is fully determined to invoke the principle of *tabula rasa* where appropriate.

"The precise fact that Georgia is not a successor of the former USSR was basis for excluding the commitment to compensate from Georgia's obligations undertaken during its accession to the Council of Europe and therefore is not reflected neither in the Opinion No. 209 (1999) 'Georgia's application for membership of the Council of Europe' nor in the relevant Georgian legislation.

"The Committee, deriving from paragraph 19 of the Concluding Observations recommends Georgia to provide it with disaggregated information on the composition of the society, including on persons belonging to numerically smaller minorities. The Government of Georgia once again emphasizes that it does not collect, maintain or use either qualitative or quantitative data on ethnicity. Any statistical data, available or collected is based on the principle of self-identification in line with General Recommendation No. 8 (1990) of the Committee and this process is guided by the notion that the State should not impose an identity on the individual, so not to conflict with individuals' human rights and freedoms. While acknowledging that disaggregated data on ethnicity may facilitate devising policies for special measures targeting a specific group, Georgia, as a country with a diverse multicultural societies living together for a long period of time, considers this as a sensitive issue."

B. Sixth and seventh periodic reports of Slovenia

2. The following comments were sent on 22 November 2010 by the Permanent Representative of Slovenia to the United Nations concerning the concluding observations adopted by the Committee following the consideration of the sixth and seventh periodic reports submitted by the State party:[h]

"The Government of the Republic of Slovenia welcomes the opportunity to pursue its dialogue with the Committee on the Elimination of Racial Discrimination by submitting the following comments and clarifications in respect of the conclusions and recommendations adopted by the Committee at its 77th session.

"The Government of the Republic of Slovenia appreciates the high level of interest shown by the Committee towards the situation in Slovenia regarding elimination of all forms of racial discrimination. The Government of Slovenia notes with appreciation that many members of the Committee participated in the interactive dialogue and that the Committee considered the dialogue as frank and sincere.

"The Government of Slovenia notes that the conclusions and recommendations do not reflect entirely the substance of the interactive dialogue and regrets that not all of the issues that found its place in the conclusions and recommendations were raised in the interactive dialogue. Thus the Delegation was not in a position to explain the views of the Government and its action taken in certain areas. Furthermore, information provided by the Delegation was not taken into consideration.

[h] For the text of the concluding observations, see *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 18* (A/65/18), paragraph 51.

"While taking note of the new act regulating the legal status of the erased, the Committee in its concluding observation expressed concern over the position of the citizens of other republics of former SFRY. In its introductory address and during the interactive dialogue, the delegation provided the Committee with detailed information on the measures that have been taken to resolve this issue. Pursuant to the 1991 Citizenship of the Republic of Slovenia Act, all persons who, in addition to the Yugoslav citizenship, also had the citizenship of another republic of the former Yugoslavia, were able to acquire the Slovenian citizenship under more favourable conditions. The number of persons who acquired the citizenship of the Republic of Slovenia in this manner was over 170,000. To persons who did not apply for citizenship or whose applications were rejected, permanent residence was terminated and they were transferred from the permanent population register to the aliens' register.

"Being aware that the issue of the erased must be resolved, the Government has decided to implement the decisions of the Constitutional Court of the Republic of Slovenia. As of February 2009, pursuant to the decision of the Constitutional Court, the Ministry of the Interior has continued to issue supplementary decisions ex officio to the erased who already acquired permanent residence permits in the Republic of Slovenia. In addition to the 4,034 supplementary decisions that had been issued in 2004, 2,420 decisions were issued between February 2009 and 6 October 2010. Supplementary decisions establishing their permanent residence in Slovenia for the period between the erasure and the acquisition of permanent residence permits will be issued, ex officio, to all the erased persons who had already acquired a permanent residence permit in the Republic of Slovenia by the time the Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia came into force. In addition to issuing supplementary decisions, the Government of the Republic of Slovenia in 2009 drafted the Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia, which eliminates the identified non-compliance with the Constitution of the Republic of Slovenia. The Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia was adopted by the National Assembly in March 2010 and entered into force on 24 July 2010.

"The above act defines the conditions under which an alien who on 25 June 1991 was a citizen of another republic of former SFRY and does not yet have a permanent residence permit in the Republic of Slovenia may acquire one, regardless of the provisions of the Aliens Act. It further defines in which cases the citizens of other republic of former SFRY who were erased from the permanent population register are entitled to have a permanent residence permit and a registered permanent residence retroactively as well, i.e. from the termination of the permanent residence registration onwards (a special decision is issued in this case). Moreover, it defines the criteria to establish the fulfilment of the condition of actual residence in the Republic of Slovenia and the instances where an absence does not interrupt the condition of actual residence in the Republic of Slovenia. According to the act, persons not residing in the Republic of Slovenia will be able to acquire a permanent residence permit as well if they have been absent for justified reasons (e.g. have left the Republic of Slovenia due to the consequences of the erasure). They must move to the Republic of Slovenia within one year of acquiring a permanent residence permit. Failing to do so, their permanent residence permit will be revoked by the competent authority, while the special decision with retroactive effect will remain in force. The act also determines the new time limit for filing applications for the issue of permanent residence permits, which is three years.

"Furthermore, the act newly regulates the issue of permanent residence permits for children of the erased persons born after 25 June 1991 who have actually resided in the Republic of Slovenia since birth. Moreover, the act newly regulates the issue of a special decision with retroactive effect for the citizens of the Republic of Slovenia who on Slovenia's independence were citizens of other republic of former SFRY and were erased from the permanent population register, after which they acquired Slovenian citizenship without having been issued a permanent residence permit.

"In decision no. U-II-1/10-19 of 10. 6. 2010 (Official Gazette of the RS, no. 50/10), with which it ruled on the inadmissibility of the requested referendum on the Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia, the Constitutional Court also ruled that the act eliminated the unconstitutionalities established in decision of the Constitutional Court no. U-I-246/02-28 of 3. 4. 2003 in a constitutional manner. At the same time it assessed that based on the act it would be possible to finally regulate the legal situation of those citizens of the republics of former SFRY who were erased from the permanent population register and have not yet regularised their legal status.

"The Committee expressed concern that the new law did not envisage any outreach campaign directed towards the "erased". The outreach campaign is in fact one of the most important elements of the solution. Already before the new law entered into practice the Government has undertaken several steps to present it to all interested. The Delegation gave extensive and detailed explanation about the outreach campaign. The Committee was informed that a special brochure has been published and already distributed to all Administrative Units in the territory of Slovenia, to Diplomatic and Consular posts of the Republic of Slovenia in states of former Yugoslavia and to Slovenian NGOs. The sample of the brochure was handed over to the Committee. The Committee was also informed that all relevant information in six languages were available on internet pages of the Ministry of Interior and the MFA (www.infotujci.si, www.mnz.si), and that a special training for officials who would conduct administrative procedures for granting of the status to the persons concerned was carried out in July.

"As regards the Roma community the Government of Slovenia appreciates the fact that the Committee in its concluding observations and recommendations welcomed the legislative and institutional development in combating racial discrimination of the Roma community in Slovenia. The Government of Slovenia notes that at the same time the Committee expressed concerns about different aspects of the situation of the Roma community in Slovenia. The recommendation No 9 stipulates that there is a segregation of Roma children in the school system. The Delegation informed the Committee about results of the measures undertaken so far and about the future plans concerning the education of Roma children. There is no segregation of Roma children in Slovenian schools. There are however special schools for children with disabilities (blindness, deafness etc.), where children can receive a special education.

"The recommendation No 10 assumes that Slovenia places Roma in camps outside populated areas that are isolated and without access to health care and other basic facilities. If the Delegation would receive a question about this in the interactive dialogue it would be able to reply already at that occasion that some Roma in Slovenia do indeed live in settlements that are isolated from the rest of the population or on the outskirts of inhabited areas, but they do so only according to their own will. There is no Government or any other measures or regulations in place that would regulate placing of Roma in camps outside populated areas. On the contrary, the Government and municipal authorities have been striving, through positive measures, to accelerate the regulation and improvement of the living

conditions of Roma, together with their better integration and the preservation of their culture and language.

"The Government of the Republic of Slovenia is looking forward to the continuation of the dialogue with the Committee on the Elimination of Racial Discrimination."

Annex IX

Text of general recommendations adopted by the Committee in the reporting period

General recommendation No. 34 on racial discrimination against people of African descent

The Committee on the Elimination of Racial Discrimination

Recalls the Charter of the United Nations and the Universal Declaration of Human Rights, according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms enshrined therein without distinction of any kind, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Recalls also that people of African descent received greater recognition and visibility at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001, South Africa, its preparatory conferences, particularly the + 5 Conference of Santiago, Chile, in 2000, reflected in the respective declarations and plans of action,

Reaffirms its general recommendations Nos. 28 (2002) on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and 33 (2009) on follow-up to the Durban Review Conference, in which the Committee expressed its commitment to press for the implementation of the Durban Declaration and Programme of Action,

Notes also the condemnation of discrimination against people of African descent as expressed in the Durban Declaration and Programme of Action,

Observes that it has become evident from the examination of the reports of States parties to the Convention that people of African descent continue to experience racism and racial discrimination,

Having held a day-long thematic discussion on racial discrimination against people of African descent in the seventy-eighth session (February–March 2011) on the occasion of the International Year for People of African Descent, in which the Committee heard and exchanged ideas with States parties, United Nations organs and specialized agencies, special rapporteurs and their representatives, as well as non-governmental organizations, and decided to clarify some aspects of discrimination against such people and further support the struggle to overcome this discrimination worldwide,

Formulates the following recommendations addressed to States parties:

I. Description

1. For the purposes of this general recommendation, people of African descent are those referred to as such by the Durban Declaration and Programme of Action and who identify themselves as people of African descent.

2. The Committee is aware that millions of people of African descent are living in societies in which racial discrimination places them in the lowest positions in social hierarchies.

II. Rights

3. People of African descent shall enjoy all human rights and fundamental freedoms in accordance with international standards, in conditions of equality and without any discrimination.

4. People of African descent live in many countries of the world, either dispersed among the local population or in communities, where they are entitled to exercise, without discrimination, individually or in community with other members of their group, as appropriate, the following specific rights:

(a) The right to property and to the use, conservation and protection of lands traditionally occupied by them and to natural resources in cases where their ways of life and culture are linked to their utilization of lands and resources;

(b) The right to their cultural identity, to keep, maintain and foster their mode of life and forms of organization, culture, languages and religious expressions;

(c) The right to the protection of their traditional knowledge and their cultural and artistic heritage;

(d) The right to prior consultation with respect to decisions which may affect their rights, in accordance with international standards.

5. The Committee understands that racism and racial discrimination against people of African descent are expressed in many forms, notably structural and cultural.

6. Racism and structural discrimination against people of African descent, rooted in the infamous regime of slavery, are evident in the situations of inequality affecting them and reflected, inter alia, in the following domains: their grouping, together with indigenous peoples, among the poorest of the poor; their low rate of participation and representation in political and institutional decision-making processes; additional difficulties they face in access to and completion and quality of education, which results in the transmission of poverty from generation to generation; inequality in access to the labour market; limited social recognition and valuation of their ethnic and cultural diversity; and a disproportionate presence in prison populations.

7. The Committee observes that overcoming the structural discrimination that affects people of African descent calls for the urgent adoption of special measures (affirmative action), as established in the International Convention on the Elimination of All Forms of Racial Discrimination (arts. 1, para. 4, and 2, para. 2). The need for special measures has been the subject of reiterated observations and recommendations made to the State parties under the Convention, summarized in general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination.

8. For the exercise of the rights of people of African descent, the Committee recommends that States parties adopt the following measures:

III. Measures of a general nature

9. Take steps to identify communities of people of African descent living in their territories, especially through the collection of disaggregated data on the population, bearing in mind the Committee's general recommendations, particularly general recommendations Nos. 4 (1973) on demographic composition of the population (art. 9); 8 (1990) on identification with a particular racial or ethnic group (art. 1, paras. 1 and 4), and 24 (1999) on reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (art. 1).

10. Review and enact or amend legislation, as appropriate, in order to eliminate, in line with the Convention, all forms of racial discrimination against people of African descent.

11. Review, adopt and implement national strategies and programmes with a view to improving the situation of people of African descent and protecting them against discrimination by State agencies and public officials, as well as by any persons, group or organization.

12. Fully implement legislation and other measures already in place to ensure that people of African descent are not discriminated against.

13. Encourage and develop appropriate modalities of communication and dialogue between communities of people of African descent and/or their representatives and the relevant authorities in the State.

14. Take the necessary measures, in cooperation with civil society and members of affected communities, to educate the population as a whole in a spirit of non-discrimination, respect for others and tolerance, especially concerning people of African descent.

15. Strengthen existing institutions or create specialized institutions to promote respect for the equal human rights of people of African descent.

16. Conduct periodic surveys, in line with paragraph 1 above, on the reality of discrimination against people of African descent and provide disaggregated data in their reports to the Committee on, inter alia, the geographical distribution and the economic and social conditions of people of African descent, including a gender perspective.

17. Effectively acknowledge in their policies and actions the negative effects of the wrongs occasioned on people of African descent in the past, chief among which are colonialism and the transatlantic slave trade, the effects of which continue to disadvantage people of African descent today.

IV. The place and role of special measures

18. Adopt and implement special measures meant to eliminate all forms of racial discrimination against people of African descent, taking into account the Committee's general recommendation No. 32 (2009).

19. Formulate and put in place comprehensive national strategies with the participation of people of African descent, including special measures in accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against people of African descent and ensure their full enjoyment of all human rights and fundamental freedoms.

20. Educate and raise the awareness of the public on the importance of special measures (affirmative action programmes) to address the situation of victims of racial discrimination, especially discrimination as a result of historical factors.

21. Develop and implement special measures aimed at promoting the employment of people of African descent in both the public and private sectors.

V. Gender-related dimensions of racial discrimination

22. Recognizing that some forms of racial discrimination have a unique and specific impact on women, design and implement measures aimed at eliminating racial discrimination, paying due regard to the Committee's general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

23. Take into account, in all programmes and projects planned and implemented and all measures adopted, the situation of women of African descent, who are often victims of multiple discrimination.

24. Include in all reports to the Committee information on the measures taken to implement the Convention that specifically address racial discrimination against women of African descent.

VI. Racial discrimination against children

25. Recognizing the particular vulnerability of children of African descent, which may lead to the transmission of poverty from generation to generation, and the inequality affecting people of African descent, adopt special measures to ensure equality in the exercise of their rights, in particular corresponding to the areas that most affect the lives of children.

26. Undertake initiatives specifically aimed at protecting the special rights of the girl child and the rights of boys in vulnerable situations.

VII. Protection against hate speech and racial violence

27. Take measures to prevent any dissemination of ideas of racial superiority and inferiority or ideas which attempt to justify violence, hatred or discrimination against people of African descent.

28. Also ensure the protection of the security and integrity of people of African descent without any discrimination by adopting measures for preventing racially motivated acts of violence against them; ensure prompt action by the police, prosecutors and the judiciary for investigating and punishing such acts; and ensure that perpetrators, be they public officials or other persons, do not enjoy impunity.

29. Take strict measures against any incitement to discrimination or violence against people of African descent including through the Internet and related facilities of similar nature.

30. Take measures to raise awareness among media professionals of the nature and incidence of discrimination against people of African descent, including the media's responsibility not to perpetuate prejudices.

31. Take resolute action to counter any tendency to target, stigmatize, stereotype or profile people of African descent on the basis of race, by law enforcement officials, politicians and educators.

32. Develop educational and media campaigns to educate the public about people of African descent, their history and their culture, and the importance of building an inclusive society, while respecting the human rights and identity of all people of African descent.

33. Encourage the development and implementation of methods of self-monitoring by the media through codes of conduct for media organizations in order to eliminate the use of racially discriminatory or biased language.

VIII. Administration of justice

34. In assessing the impact of a country's system of administration of justice, take into consideration its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and pay particular attention to the measures below where they pertain to people of African descent.

35. Take all the necessary steps to secure equal access to the justice system for all people of African descent including by providing legal aid, facilitating individual or group claims, and encouraging non-governmental organizations to defend their rights.

36. Introduce into criminal law the provision that committing an offence with racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment.

37. Ensure the prosecution of all persons who commit racially motivated crimes against people of African descent and guarantee the provision of adequate compensation for victims of such crimes.

38. Also ensure that measures taken in the fight against crimes, including terrorism, do not discriminate in purpose or effect on the grounds of race and colour.

39. Take measures to prevent the use of illegal force, torture, inhuman or degrading treatment or discrimination by the police or other law enforcement agencies and officials against people of African descent, especially in connection with arrest and detention, and ensure that people of African descent are not victims of practices of racial or ethnic profiling.

40. Encourage the recruitment of people of African descent into the police and as other law enforcement officials.

41. Organize training programmes for public officials and law enforcement agencies with a view to preventing injustices based on prejudice against people of African descent.

IX. Civil and political rights

42. Ensure that authorities at all levels in the State respect the right of members of communities of people of African descent to participate in decisions that affect them.

43. Take special and concrete measures to guarantee people of African descent the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage and to have due representation in all branches of government.

44. Promote awareness among members of the communities of people of African descent of the importance of their active participation in public and political life and eliminate obstacles to such participation.

45. Take all necessary steps, including special measures, to secure equal opportunities for participation of people of African descent in all central and local government bodies.

46. Organize training programmes to improve the political policymaking and public administration skills of public officials and political representatives who belong to communities of people of African descent.

X. Access to citizenship

47. Ensure that legislation regarding citizenship and naturalization does not discriminate against people of African descent and pay sufficient attention to possible barriers to naturalization that may exist for long-term or permanent residents of African descent.

48. Recognize that deprivation of citizenship on the basis of race or descent is a breach of States parties' obligation to ensure non-discriminatory enjoyment of the right to nationality.

49. Take into consideration that, in some cases, denial of citizenship for long-term or permanent residents could result in the creation of disadvantage for the people affected in terms of access to employment and social benefits, in violation of the Convention's anti-discrimination principles.

XI. Economic, social and cultural rights

50. Take steps to remove all obstacles that prevent the enjoyment of economic, social and cultural rights by people of African descent especially in the areas of education, housing, employment and health.

51. Take measures to eradicate poverty among communities of people of African descent within particular States parties' territories and combat the social exclusion or marginalization often experienced by people of African descent.

52. Design, adopt and implement plans and programmes of economic and social development on an equal and non-discriminatory basis.

53. Take measures to eliminate discrimination against people of African descent in relation to working conditions and work requirements including employment rules and practices that may have discriminatory purposes or effects.

54. Work with intergovernmental organizations, including international financial institutions, to ensure that development or assistance projects which they support take into account the economic and social situation of people of African descent.

55. Ensure equal access to health care and social security services for people of African descent.

56. Involve people of African descent in designing and implementing health-based programmes and projects.

57. Design and implement programmes aimed at creating opportunities for the general empowerment of people of African descent.

58. Adopt or make more effective legislation prohibiting discrimination in employment and all discriminatory practices in the labour market that affect people of African descent and protect them against all such practices.

59. Take special measures to promote the employment of people of African descent in the public administration as well as in private companies.

60. Develop and implement policies and projects aimed at avoiding the segregation of people of African descent in housing, and involve communities of people of African descent as partners in housing project construction, rehabilitation and maintenance.

XII. Measures in the field of education

61. Review all the language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning people of African descent and replace it with images, references, names and opinions which convey the message of the inherent dignity and equality of all human beings.

62. Ensure that public and private education systems do not discriminate against or exclude children based on race or descent.

63. Take measures to reduce the school dropout rate for children of African descent.

64. Consider adopting special measures aimed at promoting the education of all students of African descent, guarantee equitable access to higher education for people of African descent and facilitate professional educational careers.

65. Act with determination to eliminate any discrimination against students of African descent.

66. Include in textbooks, at all appropriate levels, chapters about the history and cultures of peoples of African descent and preserve this knowledge in museums and other forums for future generations, encourage and support the publication and distribution of books and other print materials, as well as the broadcasting of television and radio programmes about their history and cultures.

Annex X

Text of statements adopted by the Committee in the reporting period

Statement on the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action

1. On the occasion of the commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action, the Committee makes the following statement.

2. The Committee on the Elimination of Racial Discrimination reiterates the importance of the Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, and the outcome document of the Durban Review Conference, held in Geneva from 20 to 24 April 2009. The Committee stresses that these documents offer a comprehensive United Nations framework for combating racism, racial discrimination, xenophobia and related intolerance.

3. The Committee recalls its general recommendation No. 28 (2002) on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, and notes that the Declaration and the Programme of Action adopted by the Durban Conference place the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 and its implementation at the centre of the activities to combat racism and racial discrimination, while also highlighting the new forms and manifestations thereof.

4. The Committee welcomes the progress achieved by countries and regions in combating racism, racial discrimination, xenophobia and related intolerance since 2001. At the same time, as a body created by the Convention (ratified by 174 States), the Committee has found, on the basis of the consideration of periodic reports of most of the States parties, that racism, racial discrimination, xenophobia and related intolerance persist in all parts of the world and that countless human beings and many vulnerable groups continue to be victims thereto.

5. The Committee also welcomes the adoption by several States parties of plans of action and other measures in order to put into practice the provisions of the Durban Declaration and Plan of Action. These two international documents contribute to strengthening the activity of the Committee and enriching the dialogue with States parties.

6. While reiterating that the primary responsibility for effectively preventing, eliminating and combating racism and racial discrimination lies with States, the Committee is determined to reinforce the implementation of the Convention through its dialogue with States parties, in cooperation with other human rights treaty bodies, and with the relevant organizations of the United Nations system and civil society, fully taking into account the documents adopted by the Conference.

7. The Committee strongly recommends that the high-level meeting of the General Assembly convened to commemorate the tenth anniversary of the adoption of the Durban Declaration and Programme of Action:

(a) Reaffirm the Declaration and Plan of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban in 2001, as well as the outcome document of the Durban Review Conference of 2009;

(b) Reiterate the central role of the International Convention on the Elimination of All Forms of Racial Discrimination and its Committee in combating racism and racial discrimination, as stressed by the Durban documents;

(c) Urge States parties to fully implement the provisions of the Convention and call again for its universal ratification without reservations; and

(d) Send a strong message reaffirming the political will of States to continue and strengthen their efforts to build a world free from all forms of racism, racial discrimination, xenophobia and related intolerance.