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Committee on the Elimination of Racial Discrimination**Concluding observations on the sixth to eighth periodic reports of Georgia***

1. The Committee considered the combined sixth to eighth periodic reports of Georgia (CERD/C/GEO/6–8), submitted in one document, at its 2432nd and 2433rd meetings (CERD/C/SR.2432; CERD/C/SR.2433), held on 2 and 3 May 2016. At its 2444th meeting, held on 11 May 2016, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined sixth to eighth periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee also welcomes the open and constructive dialogue with the State party's delegation, as well as its efforts to provide responses and supplementary replies to issues raised by Committee members during the dialogue.

3. The Committee recalls its previous concluding observations (CERD/C/304/Add.120, para.3; CERD/C/GEO/CO/3, para.4; CERD/C/GEO/CO/4-5, para.8) and acknowledges that the State party has been confronted with ethnic and political conflicts since its independence. The Committee also recalls that Abkhazia and South Ossetia continue to be outside the effective control of the State party, and thus the State party is unable to exercise its jurisdiction to implement the Convention in these regions.

B. Positive aspects

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

(a) Adoption of the law on the elimination of all forms of discrimination, in May 2014, which prohibits all forms of discrimination, including the grounds enunciated in article 1, paragraph 1 of the Convention;

(b) Amendment of article 53 of the Criminal Code, in March 2012, which provides that offences under the Criminal Code, when committed on the basis of race,

* Adopted by the Committee at its eighty-ninth session (25 April – 13 May 2016).

colour, national, ethnic or social origin, birth or social status, and other grounds, shall constitute aggravating circumstances;

(c) Adoption of the law on the legal status of aliens and stateless persons, in March 2014;

(d) Adoption of the 2014 – 2020 National Human Rights Strategy and the accompanying National Action Plan for the Protection of Human Rights 2016- 2017;

(e) Adoption of the Civic Equality and Integration Strategy and the accompanying action plan 2015 – 2020.

5. The Committee also welcomes the ratification by the State party of the following international human rights instruments:

(a) The 1954 Convention relating to the Status of Stateless Persons, on 23 December 2011;

(b) The 1961 Convention on the Reduction of Statelessness, on 1 July 2014.

C. Concerns and recommendations

Implementation of anti-discrimination legislation

6. While welcoming the adoption of an anti-discrimination legislation in May 2014 and the designation of the Public Defender of Georgia as an equality body tasked with its implementation, the Committee expresses concern at the low number of court cases invoking its provisions. In addition, the Committee notes that unlike public agencies, private entities and individuals are not obliged to provide relevant information to the Public Defender under article 8 of the legislation, which may undermine the ability of the Public Defender to effectively examine cases of discrimination which are committed by private entities and individuals (arts. 1 and 6).

7. The Committee recommends that the State party:

(a) Adopt targeted measures to raise awareness of the standards and norms enshrined in the new anti-discrimination legislation among the public at large, and among communities at risk of discrimination in particular, such as Roma, non-citizens, and national, ethnic and ethno-religious minorities;

(b) Adopt a comprehensive and coherent policy to promote the effective application and implementation of the legislation, including by ensuring that police, prosecutors, judges and professionals in the judicial system are systematically and continuously trained on the application of laws prohibiting racial discrimination;

(c) Continue to engage with the Public Defender of Georgia to improve the implementation of the anti-discrimination legislation in practice by introducing relevant amendments, including making the provision of information by private entities and individuals mandatory.

Racist hate speech and hate crimes

8. The Committee is concerned about instances of physical attacks against ethnic and religious minorities, xenophobic and discriminatory statements by State officials and representatives of political parties, and racist hate speech in the media and the Internet, and about the lack of completed investigations and prosecution of perpetrators of such acts. Moreover, while welcoming the amendments to article 53 of the Criminal Code in March 2012 to introduce racist motivation as an aggravating circumstance of any criminal offence,

the Committee remains concerned at the lack of its effective application by the courts (arts. 4, 6 and 7).

9. The Committee recommends that the State party:

(a) Ensure that all instances of racist hate crimes are thoroughly investigated and that racist motivation is considered from the outset of judicial proceedings, that perpetrators are prosecuted and punished with appropriate sanctions, and that victims are provided adequate and appropriate compensation;

(b) Ensure that the provisions prohibiting racist hate speech are in accordance with article 4 of the Convention, explicitly prohibiting, as offences: (i) all dissemination of ideas based on racial superiority or hatred; (ii) incitement to racial discrimination; and (iii) incitement to acts of violence against any race or group of persons of another colour or ethnic origin. The Committee also draws the attention of the State party to its general recommendation No. 35 (2013) on combating racist hate speech, in which it is underlined, *inter alia*, that the criminalization of racist expression should be reserved for the most serious cases and that less serious cases should be addressed by means other than criminal law;

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

(d) Adopt appropriate measures in the fields of teaching, education, culture and information to combat prejudices and other underlying causes of intolerance and racism.

Disaggregated data

10. The Committee reiterates its previous concern at the lack of disaggregated data on the situation of racial or ethnic minorities and non-citizens in the State party, including the numerically smaller groups such as Kists, Kurds, Jews, Greeks and Assyrians (CERD/C/GEO/CO/4-5, para.19) as well as of people of African descent and African origin. It is also concerned about the lack of a systematic monitoring or data collection mechanism concerning cases of racial discrimination considered by the judiciary, under both civil and criminal procedures (art.2).

11. Recalling its general recommendation No. 4 (1973) concerning reporting by States parties on the demographic composition of the population, as well as its previous concluding observations and paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee reiterates its recommendation that the State party collect and provide the Committee with reliable, updated and comprehensive statistical data on the demographic composition of the population, together with socio-economic indicators, disaggregated by ethnicity, gender, age, religion, and other relevant factors. The Committee also recommends that the State party establish a system of data collection on complaints, investigations, prosecutions and convictions in cases of racial discrimination, and requests the State party to provide such information in its next periodic report.

National or ethnic minorities

12. While welcoming the measures taken by the State party to improve the situation of national minorities, including the adoption of the “1+4” quota programme and the Civil Equality and Integration Strategy and its accompanying action plan, the Committee expresses concern at:

(a) The low level of knowledge of Georgian as a second language among national or ethnic minorities, which hinders their integration into society, representation in public and political life and in decision-making positions, particularly at the level of the central government, as well as their access to education and employment;

(b) Limited educational and employment opportunities for youth, including girls, in remote areas where national or ethnic minorities live, such as Pankisi Valley, leaving them vulnerable to radicalization and recruitment by terrorist groups;

(c) The limited availability of relevant and appropriate media programmes for national or ethnic minorities (arts.2 and 5).

13. The Committee recommends that the State party:

(a) Ensure that strategies and action plans aimed at improving the situation of national or ethnic minorities contain concrete targets and indicators to measure progress and impact;

(b) Adopt a comprehensive approach to eliminate language barriers faced by national or ethnic minorities, including by ensuring that there is a sufficient number of qualified bilingual teachers at all levels of education;

(c) Take concrete measures to increase the representation of national or ethnic minorities in public and political life and in decision-making positions, and ensure that the establishment of new boundaries of election districts do not negatively affect the representation of national or ethnic minorities;

(d) Intensify its efforts to ensure the full enjoyment of economic, social and cultural rights of ethnic minorities in rural areas, such as Pankisi Valley, including with regard to access to education and employment;

(e) Take further measures to increase the availability, relevance and quality of information and media content that is accessible to national or ethnic minorities in their own languages.

Roma

14. While noting the efforts made by the State party to register individuals of Roma origin and to increase the school enrolment of Roma children, the Committee remains concerned that many of them do not possess identity documents and that the enrolment of Roma children remains low, particularly beyond the primary school level. It is also concerned about:

(a) The marginalization of the Roma community and the precarious economic and social conditions in which they live;

(b) Roma children who live and work on the streets, and the absence of strategic measures to address the situation; and

(c) Instances of child and/or forced marriages among the Roma community (arts. 2 and 5).

15. Bearing in mind its general recommendation no. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Intensify efforts to provide identity documents to all members of the Roma community, including through the adoption of special measures, taking into account the Committee's 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;

(b) Take comprehensive measures to ensure that Roma children enrol and stay in schools at all levels of education and adopt concrete and time-bound measures to protect children living and working on the streets and ensure their rehabilitation and social integration;

(c) Take comprehensive measures to improve the socio-economic situation of the Roma community, particularly with regard to access to employment, social services, health care and adequate housing;

(d) Ensure that the prohibition of child and/or forced marriage is effectively implemented in practice, including through awareness-raising campaigns among the Roma community concerning the harmful impact of child and/or forced marriage, and provide victims with appropriate rehabilitation and counselling services.

Persons deported by the Union of Soviet Socialist Republics in 1944

16. While noting some steps taken by the State party to repatriate persons who were forcibly resettled from Georgia by the former Union of Soviet Socialist Republics in 1944, among them the Meskhetian Turks, the Committee notes the absence of a concrete strategy and action plan, and reiterates its previous concern that only a small number of them have been granted repatriation status. It also expresses concern about administrative and bureaucratic barriers that hinder the process of obtaining citizenship, including the requirement to present evidence of renunciation of foreign citizenship (arts. 2 and 5).

17. The Committee recommends that the State party expedite the repatriation process of persons who were forcibly removed from the State party in 1944, in particular the Meskhetian Turks, without undue administrative constraints, including with regard to renunciation of foreign citizenship. It also recommends that the State party ensure that persons who have been repatriated have access to education, employment, health care and social assistance.

Labour inspectorate

18. The Committee notes with concern that the Labour Inspection Service was abolished in 2006, and that there is no longer a labour supervisory body to investigate cases of racial discrimination in employment practices (art.5).

19. The Committee recommends that the State party re-establish the Labour Inspection Service that will be responsible not only for enforcing occupational safety and health provisions, but for investigating cases of racial discrimination in employment practices.

Asylum-seekers

20. While welcoming the measures taken by the State party, the Committee is concerned at the existence of remaining obstacles to ensure a fair and effective asylum procedure, including the refusal of asylum on the grounds of national security reasons without proper justification, as well as the expanded grounds for denial of international protection in the current draft law on international protection. The Committee is also concerned at reports that a new visa regime has been introduced in September 2014, which may hinder asylum-seekers' access to asylum procedures in the State party due to financial obstacles (arts. 2 and 6).

21. Recalling its general recommendation no. 22 (1996) on article 5 of the Convention on refugees and displaced persons, the Committee recommends that the State party:

(a) Ensure that the draft law on international protection is in compliance with its international obligations and seek the guidance of the United Nations High Commissioner for Refugees in this regard;

(b) Ensure that all persons in need of international protection have access to a fair and efficient asylum procedure that is free of charge;

(c) Ensure that the decision not to grant asylum, including on the basis of national security concerns, is properly justified and communicated to the individuals concerned.

Stateless persons

22. The Committee remains concerned that, despite the measures taken by the State party, stateless persons continue to face obstacles in obtaining citizenship, including children born in the State party who would otherwise be stateless (arts. 2 and 5).

23. The Committee recommends that the State party take effective measures to reduce the risk of statelessness and ensure that all stateless persons, including children born in the State party who would otherwise be stateless, are granted nationality without undue administrative obstacles.

D. Other recommendations

Ratification of other instruments

24. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Follow-up to the Durban Declaration and Programme of Action

25. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

26. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report specific information on the concrete measures

adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

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

Amendment to article 8 of the Convention

28. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Common core document

29. The Committee urges the State party to update its common core document, which dates to 1999, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

30. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 7 (implementation of anti-discrimination legislation) and 23 (stateless persons) above.

Paragraphs of particular importance

31. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11 (disaggregated data), 15 (Roma), 17 (persons deported by the Union of Soviet Socialist Republics in 1944) and 21 (asylum-seekers) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

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

Preparation of the next report

33. The Committee recommends that the State party submit its combined ninth to tenth periodic reports, as a single document, by 2 July 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session

(CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
