



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination Eighty-fourth session

Summary record (partial)* of the 2280th meeting

Held at the Palais Wilson, Geneva, on Thursday, 13 February 2014, at 10 a.m.

Chairperson: Mr. Calí Tzay

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Sixth and seventh periodic reports of Kazakhstan (continued) (CERD/C/KAZ/6-7; CERD/C/KAZ/Q/6-7)

1. *At the invitation of the Chairperson, the delegation of Kazakhstan took places at the Committee table.*
2. **Mr. Timoschenko** (Kazakhstan) said that members of the Assembly of the People of Kazakhstan were nominated by the smaller regional assemblies of different ethnic groups and then elected. The President of Kazakhstan was also the chairman of Assembly of the People.
3. **Ms. Ualkenova** (Kazakhstan) said that, as stated in the periodic report, the Government of Kazakhstan was not in favour of creating artificial inequalities between different ethnicities and would not grant special rights to any particular group.
4. **Mr. Bashmakov** (Kazakhstan) said that the State party had been involved in various cooperation activities to address the increasing threat of international terrorism in Kazakhstan and other countries. The Government had introduced amendments to the law on religious groups with a view to combating Wahhabism and Salafism. Kazakhstan had ratified a number of conventions in that area, including the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. Mass media, schools and universities were also used to disseminate messages of tolerance.
5. **Mr. Tvarionas** (Kazakhstan) said that there were some 5,000 Roma living in the country, primarily in large cities and densely populated areas. Roma families tended to build and purchase their own homes. Three main Roma communities were spread across Karaganda and other areas. They were led by community chiefs and the communities were represented in the Assembly of the People. Many Roma worked as manual labourers and metal workers, although there were also entrepreneurs and artists. Currently more than 700 Roma children were enrolled in school. Mixed marriages were permitted.
6. **Mr. Timoschenko** (Kazakhstan) said that the Roma community actively participated in the life of the country and the cities. A major festival was being jointly organized by the Russian and Kazakh Roma communities.
7. **Mr. Omarov** (Kazakhstan) said that there was no discrimination against Roma in terms of access to housing or health care. They had access to all of the services provided to citizens. With regard to the media and the promotion of cultural harmony, any cultural group could freely register a form of mass media in their own language. There had never been any case of a refusal to register a group on the grounds of its ethnic origin.
8. **Mr. Nurbekov** (Kazakhstan) said that, although racially motivated crime was not classified as a separate crime, article 54 of the Criminal Code provided that racial, ethnic or religious motivation was an aggravating factor for serious crimes.
9. **Mr. Bashmakov** (Kazakhstan) said that the situation of the Aral Sea was not only an environmental problem, but also a social and humanitarian one. More than 95 per cent of the population of the area was of ethnic Kazakh origin. The lake had dried up after the rivers that fed it were diverted by Soviet irrigation projects with a view to increasing cotton yields. Efforts were under way to replenish the Aral Sea, and fisheries were beginning to reappear.

10. **Mr. Baschmakov** (Kazakhstan), responding to the question on whether the low number of complaints reflected a lack of trust in the law enforcement authorities, said that it was due to the fact that there were a number of other channels for citizens to resolve their grievances. For example, some complaints might be referred to a local member of parliament, who could resolve the issue directly.

11. **Ms. Zhontayeva** (Kazakhstan) said that, in response to demand, the State party produced textbooks on the Kazakh language, history and literature for members of the Kazakh diaspora in Russia, Mongolia, Turkmenistan, Germany and France.

12. **Mr. Nuraliyev** (Kazakhstan), referring to the education of national minorities, said that instruction in Uzbek, Uigur and Tajik schools was multilingual, involving the students' mother tongue, Kazakh, Russian and a foreign language. If graduates of such schools mastered the State language and Russian as well as their own language, they stood a better chance of being admitted to university. Secondary school students from those minorities could sit their final examinations in their own language. Eighty per cent of graduates from those schools had gone on to university in 2013, many of them with State grants. The Ministry of Education and Science had adopted a plan of action for multilingual instruction for 2014–2015. The High Commission on National Minorities of the Organization for Security and Cooperation in Europe (OSCE) had also developed a project in that area.

13. **Mr. Abishev** (Kazakhstan) said that the International Organization for Migration had been a long-standing partner of the State party and its office in Kazakhstan had organized a major conference on human trafficking in 1999. The State party was taking all the appropriate measures to curtail the phenomenon of trafficking in persons. Among other instruments, it had ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. An inter-agency commission to combat trafficking in humans had been set up in 2003 and was operating effectively. The Criminal Code provided for severe penalties for the crime of human trafficking. Human trafficking was not a widespread phenomenon in Kazakhstan, but there were 30 to 40 criminal cases every year. The Human Rights Commission, the International Organization for Migration and civil society organizations were preparing a report analysing the current situation with regard to human trafficking, which would be submitted to Parliament.

14. **Ms. Rakhimzade** (Kazakhstan) said that, given the size of the country, Kazakhstan had a significant amount of arable land, the use of which was regulated by the Land Code. Irrespective of their ethnic origin, citizens had the right to own, buy and sell land. A special commission governed the process and protected the rights of citizens.

15. **Mr. Kassymov** (Kazakhstan) said that incitement to hatred could be prosecuted on the basis of article 164 of the Criminal Code, entitled "incitement to racial, religious or ethnic hatred". However, that article could be applied only if an act of racial hatred had actually been committed, in which case those responsible for incitement could also be prosecuted. There had not yet been any cases before the courts for incitement.

16. **Mr. Saiynov** (Kazakhstan) said that the Khazar refugees mentioned in the State party report, of whom there had been more than 80 at one point, had been citizens of Afghanistan who had now moved on to third countries with the assistance of the Office of the United Nations High Commissioner for Refugees. The Uzbek citizens currently registered as refugees had come to Kazakhstan following the unrest in Uzbekistan several years previously.

17. Of the total of 167,000 marriages registered the year before, only 6,500 had been mixed marriages involving a foreign national, primarily from the countries of the Commonwealth of Independent States, Germany and Turkey. According to the Family Code, any foreign national who was temporarily or permanently resident in Kazakhstan could marry without restriction. Foreign nationals could acquire citizenship after a minimum of five years as permanent residents of Kazakhstan or three years of marriage to a Kazakh national. Children born abroad to Kazakh parents received Kazakh nationality. If one of the parents was not a Kazakh citizen, it was for the parents to decide which nationality they wished the child to have.

18. **Ms. Ualkenova** (Kazakhstan) said that the State party report had been prepared with the involvement and support of a wide range of NGOs. The OSCE Centre in Astana had also held a number of round tables with civil society, including NGOs who had not participated in the report working group, to discuss the content of the report. The report had been made available on the Internet and also distributed to NGOs and representatives of ethnic communities and cultural groups who had been involved in its preparation.

19. **Mr. Nurbekov** (Kazakhstan) said that no data were available on the ethnic origin of prison inmates in the country. Some 2,000 of the total 43,000 prisoners were foreign nationals. All prisoners had the same rights, regardless of their origin.

20. **Mr. Alimbayev** (Kazakhstan) said that discussions were under way with regard to the possible ratification of the amendment to article 8 of the Convention. Such processes tended to take some time, but the Committee would be informed as soon as a decision was taken.

21. **Mr. Omarov** (Kazakhstan) said that Mr. Avtonomov's comments concerning cooperation between the State party and the Committee would be transmitted to the Ministry of Foreign Affairs.

22. **The Chairperson** invited the members of the Committee to put follow-up questions to the delegation.

23. **Mr. Murillo Martínez** said that it would be helpful if the State party could include in its next periodic report the disaggregated data on the ethnic origin of prisoners he had requested. He attached particular importance to such statistics because they were often a very clear indicator of structural racism and discrimination.

24. **Mr. Diaconu** said that articles 1 and 2 of the Convention stipulated that special measures should not be considered discriminatory and were warranted under certain circumstances, in the economic, social, cultural and other fields, for the purpose of guaranteeing ethnic minority groups the full and equal enjoyment of human rights and fundamental freedoms, such as in the case of the Roma and their access to further education. Such measures should remain in place for as long as was necessary to eliminate inequality and should not establish unequal or separate rights for different racial groups once the objectives for which they had been introduced had been achieved.

25. As to combating and prosecuting racial discrimination, he stressed that the State party should ensure that it prosecuted and punished acts which incited racial hatred in the same manner as the acts of racial hatred themselves.

26. **Ms. Sadvakassova** (Kazakhstan) said that ethnic minorities were represented at both the local and national levels of government. The Assembly of People of Kazakhstan, which was the body responsible for representing such groups at the national level, appointed nine ethnic minority representatives from local government each year to the lower house of the Kazakh Parliament, the Majilis.

27. **Mr. Omarov** (Kazakhstan) said that the national human rights commission would pay particular attention to the Committee's recommendations regarding the use of special measures for ethnic minority groups.
28. **Mr. Abishev** (Kazakhstan) said that the Government would take into account the Committee's suggestions on incorporating the provisions of the Convention as part of its current review of national legislation.
29. **Mr. Kassymov** (Kazakhstan) said that article 164 of the Criminal Code prohibited the incitement of social, national, tribal, racial or religious hatred in addition to the act of racial hatred itself, and provided for the courts to hold those who incited racial hatred to account. A separate article concerning solely the incitement of racial hatred was therefore unnecessary.
30. **Mr. Lindgren Alves** asked whether children from ethnically mixed marriages were entitled to Kazakh citizenship if they so wished.
31. **Mr. Avtonomov**, with regard to the latest amendments to article 8 of the Convention, which the State party was urged to ratify, said that the amendments would not lead to an increase in State party contributions but would merely institute changes to the legal framework. Turning to the treatment of persons of African descent living in Kazakhstan, he asked whether any mechanisms had been established to monitor their situation, in accordance with the Committee's general recommendation No. 34.
32. Regarding the use of the official national languages, he congratulated the State party on its bilingual education policy, which provided for students to attend courses in both Kazakh and Russian up to and including university level.
33. In relation to the State support provided to the Roma, he commended the Government on its attempts to help the community establish a codified writing system for their native language. As to ethnic minorities and the media, he wished to know whether the State party had taken measures to promote the participation and representation of minority groups in all forms of mass media.
34. **Mr. Kozyrev** (Kazakhstan) said that although some universities had established a quota system for certain groups, there was no widespread use of special measures for ethnic minority groups in Kazakhstan. The Government would, however, consider implementing affirmative actions in the future. Regarding the citizenship rights of children from ethnically mixed marriages, they could choose to acquire either their mother's or father's nationality and were not required to declare their ethnic group on official documents.
35. **Mr. Saiynov** (Kazakhstan) said that in practice many people chose not to indicate their ethnicity on official documents, which hindered the Government's ability to compile detailed statistics on persons from ethnic backgrounds. As to the treatment of persons of African descent in Kazakhstan, he noted that most such persons had originally arrived in the country on student visas and had been monitored by the Ministry of the Interior. They had subsequently been granted residence permits and had therefore acquired the right to apply for Kazakh citizenship after five years of residence. Once they chose to become Kazakh citizens, the Government no longer monitored their situation, as they were considered to have the same human rights and fundamental protections as any other Kazakh national.
36. **Mr. Omanov** (Kazakhstan) said that the Government had no official statistics on the number of persons of African descent in Kazakhstan but that the majority had come to the country from Cuba.
37. **Ms. Sadvakassova** (Kazakhstan) said that the Roma had the same cultural rights as other ethnic groups in Kazakhstan and could set up cultural associations to promote the

dissemination of their own language and cultural traditions. The Roma community was predominantly Russian speaking and children tended to attend classes in Russian at school and university. Regarding the representation of ethnic minorities in the media, the Government intended to take further steps to ensure that minority groups, including the Roma, gained greater visibility.

38. **Mr. Omanov** (Kazakhstan) said that additional information on the situation of the Roma in Kazakhstan would be provided to the Committee at a later date.

39. **Mr. Yeung Sik Yuen** stressed the importance of taking affirmative action to tackle the inequalities faced by ethnic minorities in Kazakhstan and said that the Government should ensure that policy measures took into account the needs of vulnerable groups, such as the Roma.

40. **Mr. Vázquez**, referring to the State party's forthcoming review of its national legislation, said that the Government should ensure that its article on incitement to racial hatred was not so broad as to be used against the very ethnic groups it was designed to protect, in accordance with the Committee's general recommendation No. 35. Regarding the low number of ethnic minorities in the civil service, the Government should encourage all ethnic groups to apply for positions in future by establishing an outreach programme and waiving the requirement to speak fluent Kazakh in certain instances.

41. **Mr. Murillo Martínez** said that he wished to draw the delegation's attention to the decision by the United Nations General Assembly to establish the International Decade for People of African Descent, which would commence on 1 January 2015. He hoped that the State party would take account of the development when addressing related matters in future. He thanked the delegation for the supplementary information that it had provided on human trafficking, which was a crime that could be tackled in a number of ways. Potential measures included shifting the burden of proof onto defendants, adopting laws to promote supply chain transparency in the sectors most commonly targeted by human traffickers, and confiscating goods and assets accumulated as a result of human trafficking.

42. **Ms. Ualkenova** (Kazakhstan) said that ethnic groups directly elected representatives to the Assembly of the People of Kazakhstan, which had the right to send nine of its members to the lower house of parliament. The nine deputies, who participated in all aspects of law-making, were selected every four years on a rotational basis, in order to avoid competition between ethnic groups. The Government offered financial support to ethnic mass media outlets and linguistic centres with a view to encouraging their growth.

43. **Mr. Dederer** (Kazakhstan) said that the Government had supported several special measures benefiting ethnic groups, including the establishment of Sunday schools and nurseries, where children were able to speak their mother tongue. The Government had also awarded grants to ethnic cultural centres, allowing them to organize events, mark festivals and engage in ethnic rituals.

44. **Mr. Abishev** (Kazakhstan) said that, under national legislation, victims of human trafficking did not carry the burden of proof. The Criminal Code provided severe penalties for perpetrators of trafficking and persons acting as intermediaries. On 7 July 2011, a specialized inter-district criminal court had convicted a law enforcement official of kidnapping a woman for the purposes of sexual exploitation. The official had been sentenced to life imprisonment and his assets and property had been confiscated. Special units had been set up in every province to combat human trafficking with the support of NGOs, in which victims tended to have greater trust. The Government allocated funds to certain NGOs to allow them to provide legal, social and medical support to victims. NGOs also acted as intermediaries between victims and official bodies such as the police force.

45. On 24 October 2009, the Government had adopted a plan of action to prevent and combat crimes related to human trafficking covering the period 2011–2014. Moreover, shelters were being set up in numerous cities to support victims of violence and human trafficking, including those who had been transported from rural areas to urban centres and then exploited.

46. The Commission on Human Rights had been cooperating with the International Organization for Migration to produce an analytical report on the rights of migrants in Kazakhstan. The complete report could be consulted in Kazakh, Russian or English on the website of the Office of the United Nations High Commissioner for Refugees (UNHCR) or that of the Ministry of Foreign Affairs.

47. **Mr. Kassymov** (Kazakhstan) said that national legislation set forth the rights and responsibilities of victims and State authorities in cases involving human trafficking. It also provided for the confiscation of assets belonging to perpetrators of heinous crimes, which included human trafficking. Article 5 of the Constitution prohibited incitement to ethnic or racial hatred.

48. **Ms. Sadvakassova** (Kazakhstan) said that several reforms had been introduced with a view to attracting applicants for posts within the civil service. Persons wishing to join had to be citizens of Kazakhstan aged at least 18. They also had to possess the necessary educational and professional qualifications. Mastery of the Kazakh language was not a requirement. Competitive examinations were organized and announced to all citizens who had evinced an interest in the civil service. Candidates came from a range of ethnic groups. There were, however, traditional currents in Kazakhstan that had led to an ethnic division of labour in society, and efforts were needed to educate the population and ensure that persons from all ethnic backgrounds could enter the civil service.

49. **Mr. Bashmakov** (Kazakhstan) said that national legislation was very responsive to international standards and to changes in society, and that the Committee's comments would be reflected in new laws to be adopted shortly.

50. **Mr. Diaconu** drew the delegation's attention to paragraph 16 of the Committee's general recommendation No. 35 on combating racist hate speech, which set out a definition of incitement as agreed upon by the Committee.

51. **Mr. Yeung Sik Yuen** wished to know, on average, how many applicants there were for every job opening in the civil service. The delegation should also indicate whether any successful candidates were overqualified.

52. **Ms. Sadvakassova** (Kazakhstan) said that there were four applicants for every civil service position. The service had been split into a higher administrative level and a lower one, and candidates could apply for openings at either level depending on their qualifications.

53. **Mr. Huang** (Country Rapporteur) said that the State party should take all possible measures to ensure that ethnic minorities enjoyed the same rights as the rest of the population. It should also endeavour to boost the participation of students from ethnic minorities in higher education by, for example, allowing them to sit competitive examinations in their mother tongue. Lastly, he thanked the delegation for its honest and positive attitude towards the Committee.

54. **Mr. Omarov** (Kazakhstan) said that he was confident that the Government would take into consideration all the Committee's recommendations, observations and comments. It would also strive to develop special measures to protect members of ethnic minorities. On behalf of his delegation, he wished to present the Committee with a pen, a Kazakh musical instrument and a souvenir bearing the emblem of Kazakhstan.

55. **The Chairperson** expressed gratitude for the gifts and said that the Committee would continue its fruitful cooperation with the State party.

The discussion covered in the summary record ended at 12.30 p.m.