



# Välisministeerium

Justiitsministeerium  
Haridus- ja Teadusministeerium  
Kaitseministeerium  
Kultuuriministeerium  
Siseministeerium  
Sotsiaalministeerium

Meie 24.04.2012 nr 8,3-1/3232

## Eesti 10. ja 11. perioodiline aruanne ÜRO rassilise diskrimineerimise kõigi vormide likvideerimise komiteele

Rahvusvaheline konventsioon rassilise diskrimineerimise kõigi vormide likvideerimise kohta jõustus Eesti suhtes 20. novembril 1991. Oma 77. istungjärgul 19. - 20. augustil 2010 arutas ÜRO rassilise diskrimineerimise kõigi vormide likvideerimise komitee (komitee) Eesti 8. ja 9. perioodilist aruannet ning võttis 26. augustil 2010 vastu lõppjärelused. Aruanded ja lõppjärelused on kättesaadavad Välisministeeriumi kodulehel (<http://www.vm.ee/?q=node/10128>).

Eesti peab esitama 10. ja 11. perioodilise aruande novembris 2012. Ühtlasi peab Eesti oma aruandes vastama komitee 9. märtsi 2012 kirjas edastatud lisaküsimustele lõppjäreluste punktides 11, 13 ja 17 sisalduvate soovitude rakendamise kohta.

Eeltoodust tulenevalt palub Välisministeerium teil vastavalt oma ministeeriumi haldusalale anda aruande koostamiseks sisend koos vastustega ülalnimetatud soovitude rakendamisest hiljemalt **15. juuniks 2012**, et Välisministeerium saaks tagada ingliskeelse koondvastuse tähtaegse edastamise komiteele.

Lugupidamisega

Alar Streimann  
Kantsler

SAABUNUD Siseministeeriumisse 26. 04. 2012 Nr. 8-1/142-1
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Lisad: 1. Komitee 9. märtsi 2012 kiri 2 lk 1 eks  
2. Aruandluse juhised 13. juunist 2008 15 lk 1 eks

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Excellency,

9 March 2012

I wish to inform you that the Committee on the Elimination of All Forms of Racial Discrimination, in the course of its 80th session, considered the follow-up report submitted by the Government of the Republic of Estonia, pursuant to Rule 65(1) of the Rules of Procedure of the Committee.

The Committee welcomes the timely submission of the report, in response to its request to receive information within one year on the implementation of the recommendations contained in paragraphs 11, 13 and 17 of the Concluding Observations (CERD/C/EST/CO/8-9), adopted following the consideration of the State party's eighth to ninth periodic reports in September 2010. The Committee appreciates the opportunity provided to continue its dialogue with the State party, and would like to draw the State party's attention to the observations mentioned below. The Committee requests that comments and responses on actions taken by the State party on these issues be included in its tenth and eleventh periodic reports to be submitted in a single document by 20 November 2012.

**Paragraph 11 of the concluding observations.** The Committee welcomes the State party's intention to amend Section 151 of the Penal Code by making racially motivated hate speech an offence punishable by law that does not depend on appraising the consequences that follow such speech. It acknowledges that the State party envisages prohibiting racist organizations whose activities are directed at the commission of criminal offences. Welcoming the information that Estonia is considering ratifying the Additional Protocol to the Convention on Cybercrime, the Committee wishes to remind the State Party of the importance of criminalizing acts of racist and xenophobic nature committed through computer systems.

His Excellency Mr. Jüri Seilenthal  
Ambassador Extraordinary and Plenipotentiary  
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Permanent Mission of the Republic of Estonia  
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The Committee invites the State party to share any updated information on concrete steps it has taken aimed at amending its Penal Code in accordance with article 4 of the Convention, bearing in mind its General recommendation No. 15 (1993) on the same article.

**Paragraph 13 of the concluding observations.** The Committee takes note of the information provided that sufficient attention has been devoted both the promotion of the Estonian language and to the preservation of ethno-cultural identities of minorities in the Estonian Language Development Plan, and the Integration Strategy. It welcomes the fact that foreign languages may be used additionally to the Estonian language in public administration and communication, throughout the territory of Estonia, irrespective of the ethnic composition of the population. The Committee welcomes the entry into force of the new Language Act in July 2011 in which the possibilities of the waiver from taking the Estonian language proficiency examination have been widened.

**Paragraph 17 of the concluding observations.** While welcoming the information provided, the Committee reiterates its recommendations related to the need for the State party to assess the overall situation of the Roma community and to adopt a comprehensive strategy to tackle discrimination and other problems faced by this community.

Regarding the education of Roma children, the Committee requests the State party to provide it with additional information regarding the implementation of recommendations based on the study commissioned by the Ministry of Education and Science on the education of Roma children. The Committee encourages the State party to provide additional information on the decision-making procedure relating to the placement of Roma children in special-needs schools and on measures taken to avoid the consequence that such placement could be based on ethnicity and racial discrimination.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alexei Avtonomov', written in a cursive style.

Alexei Avtonomov  
Chairperson of the Committee  
on the Elimination of Racial Discrimination



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF  
RACIAL DISCRIMINATION

**GUIDELINES FOR THE CERD-SPECIFIC DOCUMENT TO BE SUBMITTED  
BY STATES PARTIES UNDER ARTICLE 9,  
PARAGRAPH 1, OF THE CONVENTION**

Adopted by the Committee at its seventy-first session (30 July-17 August 2007) taking into consideration the guidelines on a common core document and treaty specific documents, as contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3 and Corr.1)

**A. Introduction**

1. In accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention), each State party has undertaken to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Elimination of Racial Discrimination (the Committee), a report on the legislative, judicial, administrative or other measures which it has adopted and which give effect to the provisions of the Convention: (a) within one year after the entry into force of the Convention for the State concerned, and (b) thereafter every two years and whenever the Committee so requests. Article 9, paragraph 1, also provides that the Committee may request further information from the States parties.
2. The purpose of the reporting guidelines is to advise States parties on the form and content of their reports, so as to ensure that reports are comprehensive and presented in a uniform manner. Compliance with the reporting guidelines will also reduce the need for the Committee to request further information under article 9 and under rule 65 of its rules of procedure.
3. States should consider the reporting process, including the process of preparation of their reports, not only as a means to ensure compliance with their international obligations, but also as an opportunity to fully comprehend the state of human rights protection within their jurisdiction for the purpose of more efficient policy planning and implementation of the Convention. Furthermore, States parties should encourage and facilitate the involvement of non-governmental organizations in the preparation of reports. Such constructive engagement on the part of non-

governmental organizations will enhance the quality of reports as well as promote the enjoyment by all of the rights protected by the Convention.

4. The Committee has decided to replace its previous reporting guidelines (CERD/C/70/Rev.5) with the present document in order to take into consideration the guidelines on a common core document and treaty specific documents, as contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3 and Corr.1), as well as to take into account the evolving practice and interpretation of the Convention by the Committee, as reflected in its general recommendations, opinions under article 14 of the Convention, decisions and concluding observations.

**B. The revised reporting system and organization of information to be included in the common core document and the CERD-specific document**

5. State reports under the treaty body reporting system consist of two parts: a common core document and treaty-specific documents. The common core document should include general information about the reporting State, the general framework for the protection and promotion of human rights, as well as general information on non-discrimination and equality and effective remedies in accordance with the harmonized guidelines (HRI/MC/2006/3 and Corr.1).

6. The CERD-specific document to be submitted under article 9 of the Convention should not repeat information included in the common core document. It should contain specific information relating to the implementation of articles 1 to 7 of the Convention, taking into account the general recommendations of the Committee. The report should reflect in all its parts the actual situation as regards the practical implementation of the Convention and progress achieved. It should also contain - except for the initial CERD-specific document - a response to the concerns expressed by the Committee in its concluding observations and decisions, as well as information on implementation of its recommendations therein, taking into consideration the guidelines for follow-up on concluding observations and recommendations.

7. Furthermore, the report should provide information on machinery developed at the national level to ensure follow-up to the concluding observations of the Committee, including information on the involvement of civil society in this process (if not already included in the common core document, as requested under paragraph 46 of the harmonized guidelines).

8. Part 3 of the common core document should contain information on non-discrimination and equality and effective remedies, which are matters of particular interest for the Committee. Whereas information included in the common core document is of a general nature, information included in the CERD-specific document must be more detailed, taking into account the definition of racial discrimination provided in article 1 of the Convention. The guidelines set out in section C below provide further details.

9. In accordance with paragraph 27 of the harmonized guidelines, the Committee may request that the common core document be updated if it considers that the information it contains is out of date.

10. The ethnic characteristics of the population, including those resulting from a mixing of cultures, are of particular importance in relation to the Convention.<sup>1</sup> Indicators for assessing the implementation of human rights, including demographic indicators, should be provided in the common core document. If this information has not been included in the common core document, it should be provided in the CERD-specific document.
11. Many States consider that, when conducting a census, they should not draw attention to factors like race, lest this reinforce divisions they wish to overcome or affect rules concerning the protection of personal data. If progress in eliminating discrimination based on race, colour, descent, or national or ethnic origin (hereinafter racial discrimination) is to be monitored, some indication is needed in the CERD-specific document of the number of persons who might be treated less favourably on the basis of these characteristics. States that do not collect information on these characteristics in their censuses are therefore requested to provide information on mother tongues, languages commonly spoken, or other indicators of ethnic diversity, together with any information about race, colour, descent, or national or ethnic origins derived from social surveys. In the absence of quantitative information, a qualitative description of the ethnic characteristics of the population should be supplied. States are advised and encouraged to develop appropriate methodologies for the collection of relevant information.
12. The Committee is also interested in information indicating whether groups, and if so which groups, are officially considered to be national or ethnic minorities, or indigenous peoples in the State party. It also recommends that descent-based communities, non-citizens and internally displaced persons be identified.<sup>2</sup>
13. If needed, the report should be accompanied by sufficient copies in one of the working languages of the Committee of all other supplementary documentation which the reporting State may wish to have distributed to all members of the Committee to facilitate the consideration of its report.
14. When reporting, if States refer the Committee to information provided either in the common core document or in any other treaty-specific document, they should indicate precisely the relevant paragraphs in which such information is provided.
15. As required in paragraph 19 of the harmonized guidelines, initial treaty-specific documents should not exceed 60 pages, and subsequent periodic documents should be limited to 40 pages.

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<sup>1</sup> See general recommendations No. 16 (1993) concerning the application of article 9 of the Convention; No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention; and No. 24 (1999) concerning article 1 of the Convention.

<sup>2</sup> See general recommendation No. 29 (2002) on article 1, paragraph 1, (Descent); general recommendation No. 27 (2000) on discrimination against Roma; general recommendation No. 23 (1997) on the rights of indigenous peoples and general recommendation; and No. 30 (2004) on discrimination against non-citizens.

### **C. Information relating to articles 1 to 7 of the Convention**

16. The Committee invites States parties to incorporate in this part, under appropriate headings, the relevant extracts of the laws, regulations and judicial decisions referred to therein, as well as all other elements which they consider essential for the consideration of their reports by the Committee. The State party may, if necessary, append to the report in separate annexes all documents that it deems important for the further clarification of the report.<sup>3</sup>

17. States parties are also required to report to the Committee on difficulties they meet, if any, in implementing each provision of the Convention. Reports should not only focus on measures they plan to take to overcome these difficulties, but also on what has been achieved during the reporting period.

18. The Committee recommends that States parties include in their reports information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.<sup>4</sup>

19. The information contained in the CERD-specific report should be arranged as follows:

#### **Article 1**

A. Assessment of the compliance of the definition of racial discrimination in domestic law with the definition provided in article 1, paragraph 1 of the Convention,<sup>5</sup> in particular:

1. Information on whether the definition of racial discrimination in domestic law encompasses discrimination based on race, colour, descent, or national or ethnic origin;
2. Information on whether direct as well as indirect forms of discrimination are included in the definition of racial discrimination in domestic law;
3. Information should be provided by the State party on its understanding of the term "public life" in article 1, paragraph 1, and on the scope of anti-discrimination law;
4. Information relating to reservations and declarations, as well as derogations, restrictions or limitations regarding the scope of the definition of racial discrimination in domestic law should be included in the common core document as required in paragraph 40 b) and c) of the harmonized guidelines.<sup>6</sup>

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<sup>3</sup> Annexes are not part of the report but are kept by the Secretariat and available for consultation.

<sup>4</sup> See general recommendation No. 28 (2002) on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

<sup>5</sup> See in particular general recommendation No. 14 (1993) on article 1, paragraph 1 of the Convention.

<sup>6</sup> If this information has not been included in the common core document, it should be provided in the CERD-specific document.

5. Information relating to the extent to which domestic law provides for differential treatment based on citizenship or immigration, taking into consideration paragraphs 2 and 3 of article 1 of the Convention, as well as general recommendation No. 30 (2004) on discrimination against non-citizens.

B. Information on whether the legal system of the State party allows or provides for special measures to secure the adequate advancement of groups and individuals protected under the Convention, should be provided in the common core document as required in paragraph 52 of the harmonized guidelines. If this information has not been included in the common core document, it should be provided in the CERD-specific document.

## Article 2

A. Brief description of the legal framework and general policies to eliminate racial discrimination and to give effect to the provisions of article 2, paragraphs 1 and 2, of the Convention (if not already provided in the common core document under paragraphs 50 to 58 of the harmonized guidelines).

B. Specific and detailed information on the legislative, judicial, administrative or other measures taken:

1. To give effect to the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

2. To give effect to the undertaking to prohibit and bring to an end racial discrimination by any persons, groups or organizations;

3. To give effect to the undertaking not to sponsor, defend or support racial discrimination by any persons or organizations;

4. To review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists, bearing in mind information already provided under paragraph 42 of the harmonized guidelines;

5. To encourage, where appropriate, non-governmental organizations and institutions that combat racial discrimination and foster mutual understanding.

C. Information on whether a national human rights institution, created in accordance with the Paris principles (General Assembly resolution 48/134 of 20 December 1993), or other appropriate bodies, have been mandated with combating racial discrimination (if not already provided in the common core document in accordance with paragraphs 42 f) and 43 b) of the harmonized guidelines).<sup>7</sup>

<sup>7</sup> See general recommendation No. 17 (1993) on the establishment of national institutions to facilitate implementation of the Convention.

D. Information on groups and individuals benefiting from special and concrete measures taken in the social, economic, cultural and other fields in accordance with article 2, paragraph 2, of the Convention. Furthermore, detailed information on results achieved should be provided under article 5 of the Convention.

### Article 3

Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 3 of the Convention, in particular:

1. Recalling general recommendation No. 19 (2002) on article 1, paragraph 1, the reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries. Therefore information should be supplied on measures to prevent, prohibit and eradicate all practices of racial segregation in territories under the jurisdiction of the reporting State, in particular in cities where residential patterns may result from multiple discrimination based on low income and race, colour, descent or national or ethnic origin;<sup>8</sup>
2. Measures to ensure proper monitoring of all trends that can give rise to racial segregation and ghettoization, recalling that a condition of racial segregation can also arise without any initiative or direct involvement by public authorities;<sup>9</sup>
3. Measures to prevent and avoid as much as possible the segregation of groups and individuals protected under the Convention, including the Roma,<sup>10</sup> descent-based communities<sup>11</sup> and non-citizens<sup>12</sup>, in particular in the areas of education and housing.

### Article 4

A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 4 of the Convention, bearing in mind information already provided in the common core document as requested under paragraph 53 of the harmonized guidelines, in particular on measures:

1. To give effect to the undertaking to adopt immediate measures designed to eradicate all incitement to, or acts of, racial discrimination, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;
2. To publicly condemn all propaganda and organizations based on ideas or theories of the superiority of one group of persons on the basis of race, colour, descent or national

<sup>8</sup> See general recommendation No. 19 (1995) on article 3 of the Convention.

<sup>9</sup> Ibid.

<sup>10</sup> See general recommendation No. 27 (2000) on discrimination against Roma.

<sup>11</sup> See general recommendation No. 29 (2002) on article 1, paragraph 1, (Descent).

<sup>12</sup> See general recommendation No. 30 (2004) on discrimination against non -citizens.

or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form;

3. To declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, or incitement to racial discrimination against any person or group of persons;

4. To declare an offence punishable by law all acts of violence or incitement to such acts against persons or groups of persons because of their race, colour, descent or national or ethnic origin;

5. To declare an offence punishable by law the provision of any assistance to racist activities, including the financing thereof;

6. To declare illegal and prohibit organizations, as well as organized and all other propaganda activities, which promote and incite racial discrimination, and to recognize participation in such organizations or activities as an offence punishable by law;<sup>13</sup>

7. To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination.

B. Information on whether racial motives are considered an aggravating circumstance under domestic penal legislation.<sup>14</sup>

C. The Committee recalls its general recommendations No. 7 (1985) relating to the implementation of article 4 and No. 15 (1993) on article 4 of the Convention in which it stresses that the provisions of article 4 are of a mandatory character. Where, however, no specific legislation has been enacted to implement article 4 of the Convention, States parties should:

1. Explain the reasons for the absence of legislation, and the difficulties they face in implementing that provision;

2. Inform the Committee of the manner and the extent to which the provisions of existing penal laws, as applied by the courts, effectively implement their obligations under that provision.<sup>15</sup>

D. To satisfy their obligations under article 4 of the Convention, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced. Therefore, they should provide information concerning decisions taken by national tribunals and other State institutions regarding acts of racial discrimination, and in particular those offences dealt with in article 4 (a) and (b).<sup>16</sup> Statistical data should also be provided on complaints filed, prosecutions

<sup>13</sup> See in particular general recommendation No. 15 (1993) on article 4 of the Convention.

<sup>14</sup> See for example general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, para. 4.

<sup>15</sup> Information requested in Decision 3 (7) adopted by the Committee on 4 May 1973.

<sup>16</sup> See general recommendation No. 7 (1985) relating to the implementation of article 4.

launched and sentences passed for acts prohibited under article 4 of the Convention over the reporting period, as well as a qualitative assessment of such data.<sup>17</sup>

### Article 5

States Parties are required to report on the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention. They should provide information on the legislative, judicial, administrative or other measures taken to that effect, presented either under the right in question (with subsections devoted to the implementation of each right listed in that provision) or for the benefit of relevant groups of victims or potential victims of racial discrimination based (with subsections devoted to each relevant group).

The list of rights and freedoms, as provided in article 5, is not exhaustive. The equal enjoyment of the rights and freedoms referred to in article 5, and any similar rights, shall be protected by States parties. Such protection may be achieved in different ways, be it by the use of public institutions or through the activities of private institutions. In any case, it is the obligation of States parties to ensure the effective implementation of the Convention and to report thereon under article 9 of the Convention. To the extent that private institutions influence the exercise of rights or the availability of opportunities, the concerned State party must ensure that the result has neither the purpose nor the effect of creating or perpetuating racial discrimination.<sup>18</sup>

When special measures have been adopted for the benefit of specific groups and individuals in accordance with article 2, paragraph 2, of the Convention, detailed information on results achieved should be provided under that section.

#### I. Information grouped under particular rights

Requests for information listed below are only indicative and not limitative.

A. The right to equal treatment before tribunals and all other organs administering justice. In particular, information should be provided on measures taken to:

1. Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin, and that individuals are not subjected to racial or ethnic profiling or stereotyping;<sup>19</sup>
2. Ensure that claims of racial discrimination by individuals are investigated thoroughly and that claims made against officials, notably those concerning discriminatory or racist behaviour, are subject to independent and effective scrutiny;

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<sup>17</sup> See general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

<sup>18</sup> See general recommendation No. 20 (1996) on article 5 of the Convention.

<sup>19</sup> See statement on racial discrimination and measures to combat terrorism (official Records of the General Assembly, fifty-seventh session, supplement No. 18 (A/57/18), chapter XI, section C).

3. Implement general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

B. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution. In particular, information should be provided on measures taken to:

1. Ensure equal protection of the security and integrity of victims or potential victims of racial discrimination by adopting measures for preventing racially motivated acts of violence against them; ensure prompt action by the police, prosecutors and the judiciary in investigating and punishing such acts; and ensure that perpetrators, be they public officials or other persons, do not enjoy any degree of impunity;<sup>20</sup>
2. Prevent the use of illegal force by the police against persons belonging to groups protected under the Convention, in particular in connection with arrest and detention;<sup>21</sup>
3. Encourage appropriate arrangements for communication and dialogue between the police and groups of victims or potential victims of racial discrimination, with a view to preventing conflicts caused by racial prejudice and combating acts of racially motivated violence against members of these groups, as well as against other persons;<sup>22</sup>
4. Encourage recruitment of members of groups protected under the Convention into the police force and other law enforcement agencies;<sup>23</sup>
5. Ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment.<sup>24</sup>

C. Political rights, in particular the right to participate in elections, to vote and to stand for election on the basis of universal and equal suffrage, to take part in government as well as in the conduct of public affairs at any level and to have equal access to public service. In particular, information should be provided on:

1. Measures adopted to guarantee these rights, and on their enjoyment in practice. For example, do members of indigenous peoples and persons of different ethnic or national origin exercise such rights to the same extent as the rest of the population? Are they proportionately represented in all State public service and governance institutions?
2. The extent to which groups of victims or potential victims of racial discrimination are involved in the development and implementation of policies and programmes affecting them.<sup>25</sup>

<sup>20</sup> See for example general recommendation No. 27 (2000) on discrimination against Roma, para.12.

<sup>21</sup> Ibid., para. 13.

<sup>22</sup> Ibid., para.14.

<sup>23</sup> Ibid., para. 15.

<sup>24</sup> See general recommendation No. 30 (2004) on discrimination against non-citizens, para. 27.

3. Measures taken to promote awareness among members of the groups and communities concerned of the importance of their active participation in public and political life, and to eliminate obstacles to such participation.<sup>26</sup>

D. Other civil rights. In particular information should be provided on:

1. The right to freedom of movement and residence within the border of the State;
2. The right to leave any country, including one's own, and to return to one's country;
3. The right to nationality.

In particular, information should be provided on (a) measures taken to ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization; (b) the specific situation of long-term or permanent residents; (c) action taken to reduce statelessness; and (d) whether different standards of treatment for accessing citizenship are applied to non-citizen spouses (female and male) of citizens.<sup>27</sup>

4. The right to marriage and choice of spouse;
5. The right to own property alone as well as in association with others;
6. The right to inherit;
7. The right to freedom of thought, conscience and religion.

The Committee would like to recall the possible intersectionality of racial and religious discrimination, including the effects of anti-terrorism measures, which may lead to discrimination on ethnic grounds against members of specific religious communities;

8. The right to freedom of opinion and expression;<sup>28</sup>
9. The right to freedom of peaceful assembly and association.

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<sup>25</sup> See for example general recommendation No. 27 (2000) on discrimination against Roma, para. 43; general recommendation No. 23 (1997) on the rights of indigenous peoples, para. 4.

<sup>26</sup> See for example general recommendation No. 27 (2000) on discrimination against Roma, para. 44.

<sup>27</sup> On these issues, see in particular general recommendation No. 30 (2004) on discrimination against non-citizens.

<sup>28</sup> See in this regard general recommendation No. 15 (1993) on article 4 of the Convention, according to which "in the opinion of the Committee, the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression."

E. Economic, social and cultural rights. In particular information should be provided on:

1. The right to work.

States parties should, for example, (a) indicate whether persons belonging to groups protected under the Convention are over- or underrepresented in certain professions or activities, and in unemployment; and (b) describe governmental action to prevent racial discrimination in the enjoyment of the right to work

2. The right to form and join trade unions.

States parties should, for example, (a) indicate whether the right to form and join trade unions is granted to non-citizens, and/or which restrictions apply depending on their status, and (b) whether the right to form and join trade unions is restricted for specific professions or for specific types of contract, for which persons belonging to groups protected under the Convention are over-represented.

3. The right to housing.

States parties should, for example, (a) indicate whether groups of victims or potential victims of racial discrimination are concentrated in particular sectors or tend to concentrate in particular localities; (b) describe governmental action to prevent racial discrimination by those who rent or sell houses or apartments; and (c) describe measures taken to implement the right to housing of nomadic or semi-nomadic people, with full respect for their cultural identity.<sup>29</sup>

4. The right to public health, medical care, social security and social services.

Different groups of victims or potential victims of racial discrimination within the population may have different needs for health and social services. States parties should (a) describe any such differences and (b) describe governmental action to secure the equal provision of these services.

5. The right to education and training.

States parties should, for example, (a) indicate any variations in the level of education and training between members of groups protected under the Convention; (b) provide information on languages spoken and taught in schools; and (c) describe governmental action to prevent racial discrimination in the enjoyment of this right.

6. The right to equal participation in cultural activities.

States parties should, for example, report (a) on measures taken to enhance the right of all persons without discrimination to participate in cultural life, while at the same

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<sup>29</sup> See, for instance, in relation to Roma, the recommendations made by the Committee in paragraphs 31 and 32 of its general recommendation No. 27 (2000) on discrimination against Roma; see also the recommendation made by the Committee on Economic, Social and Cultural Rights in paragraph 7 of its general comment No. 4 (1991) on the right to adequate housing (article 11(1) of the Covenant).

time respecting and protecting cultural diversity; (b) on measures taken to encourage creative activities by persons belonging to groups protected under the Convention, and to enable them to preserve and develop their culture; (c) on measures taken to encourage and facilitate their access to the media, including newspapers, television and radio programmes, and the establishment of their own media; (d) on measures taken to prevent racial hatred and prejudice in competitive sports; and (e) on the status of minority, indigenous and other languages in domestic law and in the media.

7. The right of access to places of service.

States parties should report on action taken to prevent racial discrimination in access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, discos, cinemas, theatres and parks.

## **II. Information by relevant groups of victims or potential victims of racial discrimination**

A. The Committee wishes to ascertain to what extent all persons within the State's jurisdiction, and particularly members of groups protected by the Convention, in practice enjoy, free from racial discrimination, all the rights and freedoms referred to in article 5 of the Convention. Information provided on indicators in the common core document, in accordance with appendix 3 of the harmonized guidelines, should be supplemented with (a) a qualitative assessment of these indicators and (b) information on progress achieved over the reporting period. Specific information should be provided, and in particular:

1. On refugees and displaced persons, bearing in mind general recommendation No. 22 (1996) on article 5 of the Convention on refugees and displaced persons;
2. On non-citizens, including immigrants, refugees, asylum-seekers and stateless persons, bearing in mind general recommendation No. 30 (2004) on discrimination against non-citizens;
3. On indigenous peoples, bearing in mind general recommendation No. 23 (1997) on the rights of indigenous peoples;
4. On minorities, including the Roma, bearing in mind general recommendation No. 27 (2000) on discrimination against Roma;
5. On descent-based communities, bearing in mind general recommendation No. 29 (2002) on article 1, paragraph 1 of the Convention (Descent);
6. On women, bearing in mind general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination. States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. They should provide data by race, colour, descent and national or ethnic origin, which are then disaggregated by gender within those groups.

B. Particular attention should be brought to complex forms of disadvantage in which racial discrimination is mixed with other causes of discrimination (such as those based on age, sex and gender, religion, disability and low socio-economic status). States parties are asked to bear in mind the circumstances of the persons concerned, and to refer to any available social indicators of forms of disadvantage that may be linked with racial discrimination.<sup>30</sup>

C. Where no quantitative data relevant to the enjoyment of these rights is available, States parties should provide relevant information derived from social surveys, and report the opinions of representatives of disadvantaged groups.

### Article 6

A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the Convention, bearing in mind information already provided in accordance with paragraph 59 of the harmonized guidelines. In particular, information should be provided on:

1. The practice and decisions of courts and other judicial and administrative organs relating to cases of racial discrimination, as defined under article 1 of the Convention;
2. Measures taken to ensure (a) that victims have adequate information concerning their rights; (b) that they do not fear social censure or reprisals; (c) that victims with limited resources do not fear the cost and complexity of the judicial process; (d) that there is no lack of trust in the police and judicial authorities; and (e) that the authorities are sufficiently alert to, or aware of, offences with racial motives;
3. Whether national human rights institutions and ombudspersons and other similar institutions are authorized to hear and consider individual complaints of racial discrimination;
4. Types of reparation and satisfaction, with examples, which are considered adequate in domestic law in case of racial discrimination<sup>31</sup>;
5. The burden of proof in civil proceedings for cases involving racial discrimination.<sup>32</sup>

B. If relevant, States parties should indicate whether they intend to make the optional declaration provided in article 14. Information on obstacles to that effect may be provided. For those States that have made the declaration under article 14 of the Convention, information

<sup>30</sup> See general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

<sup>31</sup> See general recommendation No. 26 (2000) on article 6 of the Convention. See also in this regard general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system and No. 23 (1997) on the rights of indigenous peoples, para. 5.

<sup>32</sup> See General recommendation No. 30 (2004) on discrimination against non-citizens, para. 24.

should be provided on whether, in accordance with paragraph 2 of article 14, they have established or identified a body within their national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within their jurisdiction who claim to be victims of a violation of any of the rights set forth in the Convention and who have exhausted other available local remedies.

### Article 7

Information should supplement that already provided in the common core document in accordance with paragraph 56 of the harmonized guidelines. Reports should provide information on each of the main subjects mentioned in article 7 under the following separate headings: (a) education and teaching; (b) culture; and (c) information. Within these broad parameters, the information provided should reflect the measures taken by States parties (i) to combat prejudices which lead to racial discrimination; and (ii) to promote understanding, tolerance and friendship among nations and all groups.

A. Education and teaching. In particular, information should be provided on:

1. Legislative and administrative measures taken in the field of education and teaching to combat prejudices which lead to racial discrimination, including general information on the educational system;
2. Steps taken to include, in school curricula and in the training curricula of teachers and other professionals, programmes and subjects to help promote human rights issues which would lead to better understanding, tolerance and friendship among all groups. Information should also be provided on whether the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Convention are included in education and teaching;
3. Steps taken to review all language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning groups protected under the Convention, and replace it by images, references, names and opinions which convey the message of the inherent dignity of all human beings and their equality in the enjoyment of human rights;<sup>33</sup>
4. Steps taken to include in textbooks, at all appropriate levels, chapters about the history and culture of groups protected under the Convention and living on the State's territory, and to encourage and support the publication and distribution of books and other print materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them;<sup>34</sup>
5. Measures taken for intensive training of law enforcement officials to ensure that in the performance of their duties they respect as well as protect human dignity and

<sup>33</sup> See for example general recommendation No. 29 (2002) on article 1, paragraph 1, (Descent), para. 48.

<sup>34</sup> See general recommendation No. 27 (2000) on discrimination against Roma, para. 26.

maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.<sup>35</sup>

B. Culture. In particular, information should be provided on:

1. The role of institutions or associations working to develop national culture and traditions, to combat racial prejudices and to promote intra-national and intra-cultural understanding, tolerance and friendship among all groups;
2. Support provided by the States parties to such institutions and associations, and more generally, action taken to ensure the respect and promotion of cultural diversity, for example in the area of artistic creation (cinema, literature, painting, etc.);
3. The linguistic policies adopted and implemented by the State party.

C. Information. In particular, information should be provided on:

1. The role of State media in the dissemination of information to combat prejudices which lead to racial discrimination, and in fostering better understanding of the purposes and principles of the Convention;
2. The role of mass information media, i.e. the press, radio and television and Internet in publicizing human rights and disseminating information on the purposes and principles of human rights instruments;
3. Action taken to encourage awareness among professionals of all media of their particular responsibility not to encourage prejudice and to avoid reporting incidents involving individual members of groups protected under the Convention in a way which blames such groups as a whole;<sup>36</sup>
4. Action taken to encourage methods of self-monitoring by the media, through a code of conduct for media organizations, in order to avoid racial, discriminatory or biased language;<sup>37</sup>
5. Action to develop educational and media campaigns to educate the public about the life, society and culture of groups protected under the Convention and the importance of building an inclusive society while respecting the human rights and cultural identity of all groups.<sup>38</sup>

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<sup>35</sup> See general recommendation No. 13 (1993) on the training of law enforcement officials in the protection of human rights.

<sup>36</sup> See for example general recommendation No. 27 (2000) on discrimination against Roma, para. 37.

<sup>37</sup> Ibid., para. 40.

<sup>38</sup> Ibid., para. 38.