



**United Nations**

# **Report of the Committee on the Elimination of Racial Discrimination**

**104th session  
(9–25 August 2021)**

**105th session  
(15 November–3 December 2021)**

**106th session  
(11–29 April 2022)**

**General Assembly  
Official Records  
Seventy-seventh Session  
Supplement No. 18**

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[5 September 2022]

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## Letter of transmittal

9 August 2022

Mr. Secretary-General,

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

The report contains information on the 104th, 105th and 106th sessions of the Committee, held from 9 to 25 August 2021, 15 November to 3 December 2021 and 11 to 29 April 2022, respectively.

Owing to the coronavirus disease (COVID-19) pandemic, the 104th session was conducted virtually, while the 105th and 106th sessions took place in a hybrid format.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has been ratified by 182 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During its 104th, 105th and 106th sessions, the Committee continued to deal with a significant workload, including in terms of the examination of State party reports (see chap. III) and of communications under articles 11 and 14 (see chaps. V and VIII).

The Committee examined the situations of several States parties under its early warning and urgent action procedures (see chap. II). It also examined information submitted by several States parties under its procedure for follow-up to the consideration of reports (see chap. IV).

The COVID-19 pandemic and its consequences have disproportionately affected groups and persons who are already vulnerable to racial discrimination and have increased racist attitudes against them. Although vaccines have been developed to combat the disease, access to, and thus the benefits of, those vaccines has been unequal across populations, both within and among nations. In this context, the Committee adopted a statement calling on States parties to ensure effective and non-discriminatory access to COVID-19 vaccines, through cooperation and guided by the principle of international solidarity. The Committee also adopted a statement calling on States parties, in particular those neighbouring Ukraine, to prevent, combat and sanction all forms of racial discrimination, in particular xenophobic and racist violence and hate speech against persons fleeing the conflict in Ukraine. I have no doubt that the dedication and professionalism of the members of the Committee, as well as the pluralistic and multidisciplinary nature of their contributions, will ensure that the work of the Committee will continue to contribute significantly to the implementation of both the Convention and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the years ahead.

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

*(Signed)* Verene **Shepherd**  
Chair of the Committee on the Elimination  
of Racial Discrimination

His Excellency Mr. António Guterres  
Secretary-General of the United Nations  
New York

## I. Organizational and related matters

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

1. As at 29 April 2022, the closing date of the 106th session of the Committee on the Elimination of Racial Discrimination, there were 182 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in its resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. As at the same date, 59 of the parties to the Convention had made a declaration under article 14 (1) of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention.

3. Fifty-two States parties have accepted the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992, relating to the funding of the Committee's activities.

4. Lists of the States parties that have made the declaration under article 14 and of those that have accepted the amendment to article 8 (6) of the Convention can be found on the website of the United Nations Treaty Collection.<sup>1</sup>

### B. Sessions and agendas

5. The Committee held three sessions during the period under review. The 104th session (2823rd–2835th meetings), the 105th session (2836th–2865th meetings) and the 106th session (2866th–2891st meetings) were conducted from 9 to 25 August 2021, 15 November to 3 December 2021 and 11 to 29 April 2022, respectively.

6. The provisional agendas of the 104th, 105th and 106th sessions ([CERD/C/104/1](#), [CERD/C/105/1](#), and [CERD/C/106/1](#) (as revised orally)) were adopted by the Committee.

### C. Membership

7. The list of members of the Committee during the 104th and 105th sessions were as follows:

<i>Name of member</i>	<i>Nationality</i>	<i>Term expires on 19 January</i>
Silvio José <b>Albuquerque e Silva</b>	Brazil	2022
Sheikha Abdula <b>Ali Al-Misnad</b>	Qatar	2024
Nourredine <b>Amir</b>	Algeria	2022
Marc <b>Bossuyt</b>	Belgium	2022
Chinsung <b>Chung</b>	Republic of Korea	2022
Bakari Sidiki <b>Diaby</b>	Côte d'Ivoire	2022
Ibrahima <b>Guissé</b>	Senegal	2024

<sup>1</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-2-a&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2-a&chapter=4&clang=_en).

<i>Name of member</i>	<i>Nationality</i>	<i>Term expires on 19 January</i>
Rita <b>Izsák-Ndiaye</b>	Hungary	2022
<b>Ko Keiko</b>	Japan	2022
Gün <b>Kut</b>	Türkiye	2022
<b>Li Yanduan</b>	China	2024
Mehrdad <b>Payandeh</b>	Germany	2024
Vadili Mohamed <b>Rayess</b>	Mauritania	2024
Verene <b>Shepherd</b>	Jamaica	2024
Stamatia <b>Stavrinaki</b>	Greece	2024
Faith Dikeledi Pansy <b>Tlakula</b>	South Africa	2024
Eduardo Ernesto <b>Vega Luna</b>	Peru	2024
Yeung Kam John <b>Yeung Sik Yuen</b>	Mauritius	2022

8. During the 106th session, the members of the Committee elected at the twenty-ninth meeting of States parties, on 24 June 2021, and whose term of office is due to expire on 19 January 2026, made their solemn declaration in open Committee.

9. As of 20 January 2022, the new membership of the Committee has been as follows:

<i>Name of member</i>	<i>Nationality</i>	<i>Term expires on 19 January</i>
Sheikha Abdula <b>Ali Al-Misnad</b>	Qatar	2024
Nourredine <b>Amir</b>	Algeria	2026
Michal <b>Balcerzak</b>	Poland	2026
Chinsung <b>Chung</b>	Republic of Korea	2026
Bakari Sidiki <b>Diaby</b>	Côte d'Ivoire	2026
Régine <b>Esseneme</b>	Cameroon	2026
Ibrahima <b>Guissé</b>	Senegal	2024
Gün <b>Kut</b>	Türkiye	2026
<b>Li Yanduan</b>	China	2024
Gay <b>McDougall</b>	United States of America	2026
Mehrdad <b>Payandeh</b>	Germany	2024
Vadili Mohamed <b>Rayess</b>	Mauritania	2024
Verene <b>Shepherd</b>	Jamaica	2024
Stamatia <b>Stavrinaki</b>	Greece	2024
Mazalo <b>Tebie</b>	Togo	2026
Faith Dikeledi Pansy <b>Tlakula</b>	South Africa	2024
Eduardo Ernesto <b>Vega Luna</b>	Peru	2024
Yeung Kam John <b>Yeung Sik Yuen</b>	Mauritius	2026

## D. Officers of the Committee

10. During the 104th and 105th sessions, the Bureau of the Committee comprised the following Committee members, elected on 17 June 2020, to serve a two-year term (2020–2022):

*Chair:* Li Yanduan

*Vice-Chairs:* Marc Bossuyt  
Verene Shepherd  
Yeung Kam John Yeung Sik Yuen

*Rapporteur:* Rita Izsák-Ndiaye

11. During the 106th session, the Committee elected its new Bureau, comprising the following Committee members, to serve a two-year term (2022–2024)

*Chair:* Verene Shepherd

*Vice-Chairs:* Michal Balcerzak  
Chinsung Chung  
Stamatia Stavrinaki

*Rapporteur:* Nourredine Amir

## E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the special procedures of the Human Rights Council and the regional human rights mechanisms

12. During the Committee's 105th and 106th sessions, reports of the European Commission against Racism and Intolerance relating to the States parties under review were made available to the members of the Committee, who took note of those reports with appreciation.

## F. Other matters

13. During its 105th session, the Committee held a meeting with members of the Working Group of Experts on People of African Descent, to exchange views and information on the current state of affairs and developments regarding the situation of people of African descent in different regions.

14. During its 106th session, the Committee met with members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, to discuss areas of mutual interest and to share views on the current developments regarding the situation of migrant workers. At the same session, the Committee met with the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, to share its experience in this regard and explore avenues for future collaboration. The Committee further met with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, who updated the Committee on his mandate and activities as well as on findings relating to the situation of housing in the context of discrimination.

15. During its 106th session, the Committee met with the Chief of the Anti-Racial Discrimination Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR), who updated the Committee on the establishment, mandate and future activities of the Permanent Forum on People of African Descent.

**G. Adoption of the report**

16. At its 2912th meeting (106th session), the Committee adopted its annual report to the General Assembly.

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

17. The Committee's work under its early warning and urgent action procedures is aimed at preventing and responding to serious violations of the Convention. This work is based on guidelines adopted by the Committee at its seventy-first session, in August 2007 (A/62/18, annex III).

18. The Committee's Working Group on Early Warning and Urgent Action Procedures was established at the sixty-fifth session of the Committee, in August 2004. During the 104th and 105th sessions, the Working Group comprised the following members:

*Coordinator:* Chinsung Chung

*Members:* Bakari Sidiki Diaby  
Rita Izsák-Ndiaye  
Mehrddad Payandeh  
Eduardo Ernesto Vega Luna

19. As from the Committee's 106th session, the Working Group comprises the following members:

*Coordinator:* Gay McDougall

*Members:* Michal Balcerzak  
Ibrahima Guissé  
Li Yanduan  
Eduardo Ernesto Vega Luna

### A. Statements

20. The statements below were adopted by the Committee during the reporting period.

#### **Statement 1 (2022) on racial discrimination against persons fleeing from the armed conflict in Ukraine**

*The Committee on the Elimination of Racial Discrimination,*

*Alarmed* by reports of discriminatory treatment of people attempting to flee Ukraine into neighbouring countries, in particular people of African, Asian, Middle Eastern and Latin American descent,

*Deeply concerned* by reports of an increase in discrimination, in particular xenophobic and racist hate speech and violence against people fleeing the conflict, especially against people of African, Asian, Middle Eastern and Latin American descent,

*Taking into account* General Assembly resolution ES-11/1 of 2 March 2022, Human Rights Council resolution 49/1 of 4 March 2022, and statements by the Secretary-General, the United Nations High Commissioner for Human Rights and special procedure mandate holders on the situation in Ukraine,

*Recalling* the international obligations that the parties to the conflict and other States parties have undertaken under the International Convention on the Elimination of All Forms of Racial Discrimination,

1. *Urges* all parties to the conflict to facilitate safe and unfettered passage to destinations within and outside of Ukraine for all persons fleeing the conflict, without discrimination on grounds of race, colour, descent or national or ethnic origin;

2. *Calls upon* all States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, in particular those neighbouring Ukraine, to continue to allow access to their territories for all persons fleeing the conflict, without discrimination on grounds of race, colour, descent or national or ethnic origin and regardless of their immigration status;

3. *Also calls upon* all States parties to the Convention, in particular those neighbouring Ukraine, to adopt measures to prevent, combat and sanction all forms of racial discrimination, in particular xenophobic and racist violence and hate speech against persons fleeing the conflict, to take resolute action to protect all persons against racist violence and hate speech, including on the Internet, and to publicly condemn and distance themselves from racist hate speech, including in the media and by public persons and political actors.

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

*The Committee on the Elimination of Racial Discrimination,*

*Acting under its early warning and urgent action procedures,*

*Concerned* about the devastating disparate impact of the coronavirus disease (COVID-19) pandemic on individuals and groups vulnerable to racial discrimination as defined in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular persons of African or Asian descent, those belonging to national or ethnic minorities, Roma communities, indigenous peoples and non-citizens, living in global North and global South countries,

*Concerned also* that the disproportionate impact of the pandemic on those groups protected by the Convention, in terms of higher levels of morbidity and mortality, is in significant part attributed to consequences of the historic racial injustices of slavery and colonialism that remain largely unaccounted for today, and the contemporary racially discriminatory effects of structures of inequality and subordination resulting from failures to redress the effects of racism rooted in slavery, colonialism and apartheid,

*Acknowledging* that failures to redress these injustices have impeded the ability of members of those communities to enjoy fully the right to life, health and health care, and the capacity of States to address entrenched structural inequities, which have been exposed and deepened by the pandemic and enduring practices of discrimination and exclusion,

*Concerned* that across the globe higher rates of COVID-19 morbidity and mortality have been reported among persons and groups protected under the Convention owing to little or no access to vaccines, as well as living conditions, with limited or no access to clean water and sanitation facilities, health care, medication, medical services, social security and social services,

*Reaffirming* that States must protect against and mitigate the impact of the pandemic on individuals and groups subject to structural discrimination and disadvantage on the basis of the grounds in the Convention, taking into account the gender-related dimensions of racial discrimination,

*Reaffirming also* that States have an obligation to ensure equal access to life-saving health-care services, including testing, vaccines and medical treatments, which have been key to preventing the spread of COVID-19 and reducing fatalities as a consequence of infection with the virus,

*Deeply concerned* that the vast majority of COVID-19 vaccines have been administered in high-income and upper-middle-income countries and that, as of April 2022, only 15.21 per cent of the population in low-income countries has received even one vaccine dose, creating a pattern of unequal distribution within and between countries that replicates slavery and colonial-era racial hierarchies, and that further deepens structural inequalities affecting vulnerable groups protected under the Convention,

*Deeply concerned also* that the pattern of unequal distribution of life-saving vaccines and COVID-19 technologies between and within countries manifests as a global system privileging those former colonial powers to the detriment of formerly colonized States and descendants of enslaved groups; recalling that, under provisions and practice established under the International Convention on the Elimination of All Forms of Racial Discrimination, States are obligated to eliminate all forms of racial inequities whether they are by purpose or effect, de jure or de facto, and ensure substantive equality without discrimination on the grounds of race, colour, descent or national or ethnic origin,

*Noting* that most of the approved vaccines are subject to an intellectual property rights regime and that the insufficient supply of vaccines due to unequal global distribution necessitates urgent measures in relation to the intellectual property regime,

*Noting also* the proposal within the World Trade Organization on a temporary waiver of part of the Agreement on Trade-Related Aspects of Intellectual Property Rights for COVID-19 vaccines and treatment, supported by the Committee on Economic, Social and Cultural Rights and a number of special procedure mandate holders of the Human Rights Council, and noting the report of the United Nations High Commissioner for Human Rights on the human rights implications of the lack of affordable, timely, equitable and universal access and distribution of COVID-19 vaccines and the deepening inequalities between States ([A/HRC/49/35](#)),

*Noting further* that Germany, Switzerland and the United Kingdom of Great Britain and Northern Ireland, all parties to the International Convention on the Elimination of All Forms of Racial Discrimination, have opposed a request, spearheaded by India and South Africa and submitted in October 2020 to the Council for Trade-Related Aspects of Intellectual Property Rights (later revised in May 2021) to temporarily waive intellectual property protections on health-care technologies concerning COVID-19 prevention, containment and treatment imposed under the Agreement on Trade-Related Aspects of Intellectual Property Rights, and noting that Germany, Switzerland and the United Kingdom of Great Britain and Northern Ireland have failed to mandate technology transfers by nationally based pharmaceutical companies that insist on guarding their intellectual property monopolies on COVID-19 health-care technologies,

*Noting* that, while the United States of America, a party to the International Convention on the Elimination of All Forms of Racial Discrimination, has declared support for a narrow vaccines-only waiver, it has failed to use all its available tools, including activation of its Defense Production Act, to mandate transfers of COVID-19 health-care technology from nationally based pharmaceutical companies,

*Recalling* its statement of 7 August 2020 on the COVID-19 pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination,

1. *Reiterates* its call on States parties to ensure, including through international cooperation, effective and non-discriminatory access to COVID-19 vaccines and treatment technologies, taking into account the situation and needs of groups that are marginalized and subjected to discrimination;

2. *Reiterates further* its call on States parties, in particular Germany, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America, to combat the COVID-19 pandemic guided by the principle of international solidarity through international assistance and cooperation, including by supporting the proposal of a comprehensive temporary waiver on the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights, and taking all additional national and multilateral measures that would mitigate the disparate impact of the pandemic and its socioeconomic consequences on groups and minorities protected under the Convention.

## **B. Consideration of situations under the early warning and urgent action procedures**

21. During the reporting period, the Committee considered a number of situations under its early warning and urgent action procedures, as described below.

22. The Committee sent a letter, dated 25 August 2021, to the Government of Brazil in follow-up to its previous letter dated 7 August 2020, regarding the situation of indigenous peoples and Afro-Brazilians in the context of the COVID-19 pandemic. In the letter, the Committee referred to the alleged lack of inclusion of all indigenous people in the country's health policies; the lack of a recommendation addressing the respect of funeral rites and burials; allegations of violent operations carried out by the police in the favelas of Rio de Janeiro, and the perpetuation of structural racism prevalent in Brazilian law enforcement. The

Committee requested information on those issues and on the concrete measures and actions taken to address them.

23. The Committee sent a letter, also dated 25 August 2021, to the Government of Brazil thanking it for, and acknowledging the receipt of, the information it submitted on the impact of infrastructure projects on Xavante indigenous people in Mato Grosso State, Brazil, as requested in a previous communication. The Committee took note of the efforts to reassess the Indigenous Component Study of the highway BR-080 project, and of the provision for relevant studies on, and the planned feasibility analysis of, five hydroelectric plant projects under consideration. It regretted that the Government did not address the allegation that authorities did not consult all of the Xavante communities that were potentially affected. The Committee requested more information on those issues and on the measures adopted to address them.

24. The Committee sent a letter, dated 25 August 2021, to the Government of India, concerning the situation of the scheduled tribes of Lakshadweep with regard to their rights to consultation, to their land, to possess and retain their property, and to their culture, during the elaboration, and following the publication, of the draft Lakshadweep development authority regulation of 2021. The Committee requested additional information on those issues and on the measures taken to address them.

25. The Committee sent a letter, dated 25 August 2021, to the Government of the United States of America, concerning the Anishinaabe indigenous peoples' situation after the decision of the Government and the State of Minnesota to permit the expansion of a tar sands pipeline. In its letter, the Committee referred to allegations of infringements of the rights of the Anishinaabe indigenous peoples that would ensue from the project. Similarly, the Committee referred to claims that the domestic remedies available did not provide a legal basis for addressing underlying causes of structural discrimination. The Committee requested information on the allegations.

26. The Committee sent a letter, dated 3 December 2021, to the Government of Australia concerning the draft of the Aboriginal cultural heritage bill of 2020 and its potential impact on Aboriginal peoples' rights. The Committee expressed concern regarding allegations that the consultation process carried out by the State party was not adequate, and that Aboriginal peoples were not informed about the current status of the draft and consultation process. It requested information on those issues and on the measures adopted to address them.

27. The Committee sent a letter, dated 3 December 2021, to the Government of Kazakhstan thanking it for the submission of the information requested in a previous communication about the situation of members of the Dungan community, a minority group in the country. It requested updated and detailed information on the measures adopted to investigate allegations of incitement to violence and of hate speech against the Dungan people, and on the steps taken to ensure that persons from the Dungan community who were subject to criminal investigations and proceedings received a fair trial.

28. The Committee sent a letter, dated 3 December 2021, to the Government of the United States thanking it for the response to the Committee's previous communication. The Committee welcomed the information provided on the decision of the Government to suspend all activities related to the implementation of the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge. The Committee reminded the State party of its obligation to guarantee the respect of the rights of the Gwich'in and other indigenous peoples in Alaska.

29. The Committee sent a letter, dated 29 April 2022, to the Government of Brazil, thanking it for the submission of information requested in a previous communication. The Committee requested the Government to provide, during the presentation of its combined eighteenth to twentieth periodic reports to the Committee, updated and detailed information on the situation of indigenous peoples and Afro-Brazilians in the context of the COVID-19 pandemic.

30. The Committee sent a letter, dated 29 April 2022, to the Government of Canada regarding the situation of the Secwepemc and Wet'suwet'en communities in relation to the Trans Mountain Pipeline and the Coastal GasLink Pipeline in the Province of British

Columbia. It urged the State party to cease forced evictions of Secwepemc and Wet'suwet'en peoples and to guarantee that no force would be used against them. The Committee expressed concern that the information received by the Committee pointed rather to an increase in the use of force, surveillance, and criminalization of land defenders and peaceful protesters, and included allegations that measures were not adopted to engage in consultation. The Committee requested information on the measures taken to address the concerns raised in the Committee's relevant decision of 13 December 2019 and in its previous letter of 24 November 2020.

31. The Committee sent a letter, dated 29 April 2022, to the Government of Guyana, concerning the situation of the indigenous people of Chinese Landing and the Wapichan indigenous people. It noted information that Guyanese authorities had granted a concession for a medium-scale mining project in titled land of an indigenous community, and about the decision in which the High Court of the Supreme Court of Judicature of Guyana dismissed the claim filed by that indigenous community. Similarly, the Committee noted information related to mining projects on Marudi Mountain and their impact on Wapichan indigenous peoples. The Committee requested additional information on those allegations.

32. The Committee sent a letter, dated 29 April 2022, to the Government of India, concerning the situation of particularly vulnerable tribal groups in Andaman and Nicobar Islands, and of the Chakma and Hajong communities in Arunachal Pradesh State. The Committee noted allegations of the potential harmful impact that two megaprojects could have on five particularly vulnerable tribal groups that inhabited Andaman and Nicobar Islands, as the projects imposed significant ecological pressure on Nicobar Island, and that the projects violated the existing laws and policies that protected particularly vulnerable tribal groups and their habitats. The Committee took note of the impact of relocation of the Chakma and Hajong peoples from Arunachal Pradesh State after the conduct of a special census, and allegations that the census constituted an act of racial discrimination and profiling. The Committee requested information from the State party on the allegations, and on the measures adopted to address them.

33. The Committee sent a letter, dated 29 April 2022, to the Government of Sweden, concerning the situation of the Sami peoples in Jokkmokk after the Government's decision to grant a mining exploitation concession without consulting the Sami communities. The Committee took note of the allegations that the Government had concluded that the socioeconomic benefits outweighed the environmental harm and the impact on reindeer herding. The Committee requested additional information on the allegations and on the measures adopted to respond to them.

34. The Committee sent a letter, dated 29 April 2022, thanking the Government of the United States for submitting information regarding the situation of the Anishinaabe indigenous peoples in Minnesota, in relation to the expansion of a tar sands pipeline. The Committee requested more information on the situation.

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

35. At its 104th session, the Committee adopted concluding observations on Lebanon ([CERD/C/LBN/CO/23-24](#)) and the Netherlands ([CERD/C/NLD/CO/22-24](#)). At its 105th session, the Committee adopted concluding observations on Chile ([CERD/C/CHL/CO/22-23](#)), Denmark ([CERD/C/DNK/CO/22-24](#)), Singapore ([CERD/C/SGP/CO/1](#)), Switzerland ([CERD/C/CHE/CO/10-12](#)) and Thailand ([CERD/C/THA/CO/4-8](#)). At its 106th session, the Committee adopted concluding observations on Cameroon ([CERD/C/CMR/CO/22-23](#)), Estonia ([CERD/C/EST/CO/12-13](#)), Kazakhstan ([CERD/C/KAZ/CO/8-10](#)) and Luxembourg ([CERD/C/LUX/CO/18-20](#)).

36. At its 104th, 105th and 106th sessions, the country rapporteurs and the task force members assisting them were as follows: Lebanon (Mr. Guissé, assisted by Mr. Bossuyt and Mr. Diaby); the Netherlands (Mr. Albuquerque e Silva, assisted by Ms. Shepherd and Mr. Payandeh); Chile (Ms. Shepherd, assisted by Mr. Payandeh); Denmark (Ms. Ko, assisted by Ms. Stavrinaki); Singapore (Mr. Bossuyt); Switzerland (Mr. Diaby, assisted by Ms. Stavrinaki and Mr. Guissé); Thailand (Ms. Chung, assisted by Mr. Yeung Sik Yuen); Cameroon (Ms. Stavrinaki, assisted by Mr. Diaby); Estonia (Ms. Tlakula, assisted by Mr. Yeung Sik Yuen); Kazakhstan (Mr. Guissé, assisted by Mr. Diaby); and Luxembourg (Ms. Ali Al-Misnad, assisted by Ms. Chung).

37. The concluding observations adopted by the Committee at the 104th, 105th and 106th sessions are available from the OHCHR website ([ohchr.org](http://ohchr.org)) and the Official Documents System of the United Nations (<http://documents.un.org>) under the symbols indicated above.

#### **IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention**

38. During the period under review, Mr. Kut served as Rapporteur for follow-up to the consideration of reports submitted by States parties.

39. At its sixty-sixth and sixty-eighth sessions, the Committee adopted terms of reference for the work of the Rapporteur for follow-up<sup>2</sup> and the guidelines on follow-up<sup>3</sup> to be sent to each State party together with the concluding observations.

40. At the 104th session (2834th meeting), 105th session (2863rd meeting) and 106th session (2890th meeting), Mr. Kut presented reports to the Committee on his activities as Rapporteur.

41. During the period under review, the Committee considered the follow-up reports of Colombia ([CERD/C/COL/FCO/17-19](#)), Czechia ([CERD/C/CZE/FCO/12-13](#)), El Salvador ([CERD/C/SLV/FCO/18-19](#)), Ireland ([CERD/C/IRL/FCO/5-9](#)), Lithuania ([CERD/C/LTU/FCO/9-10](#)), Montenegro ([CERD/C/MNE/FCO/4-6](#) and [CERD/C/MNE/FCO/4-6/Add.1](#)), Peru ([CERD/C/PER/FCO/22-23](#)) and Uzbekistan ([CERD/C/UZB/FCO/10-12](#)).

42. The Committee continued the constructive dialogue with those States parties by transmitting comments and requesting further information. The Committee also transmitted reminder letters to States parties with overdue follow-up reports.

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<sup>2</sup> For the terms of reference, see [A/60/18](#), annex IV.

<sup>3</sup> For the text of the guidelines, see [A/61/18](#), annex VI.

## V. Consideration of communications received under article 11 of the Convention

43. Under article 11 of the Convention, if a State party considers that another State party is not giving effect to the provisions of the Convention, it may bring the matter to the attention of the Committee by submitting a communication. In 2018, the Committee received the first three such inter-State communications. It was agreed that the Committee's working group on communications would also deal with inter-State communications (A/74/18, para. 49).

44. During the 104th and 105th sessions of the Committee, the working group on communications comprised the following members:

*Coordinator:* Yeung Kam John Yeung Sik Yuen

*Members:* Silvio José Albuquerque e Silva  
Rita Izsák-Ndiaye  
Keiko Ko  
Stamatia Stavrinaki

45. During the Committee's 106th session, the Committee appointed the new members of the working group on communications. From that session, the composition of the working group was as follows:

*Coordinator:* Mehrdad Payandeh

*Members:* Sheikha Abdulla Ali Al-Misnad  
Michal Balcerzak  
Bakari Sidiki Diaby  
Vadili Mohamed Rayess

46. During the period between the 103rd and 106th sessions, the activities of the Committee with regard to inter-State communications received under article 11 of the Convention were characterized by the work of the three ad hoc conciliation commissions. The work of the commissions concerned the communications submitted by Qatar against Saudi Arabia and against the United Arab Emirates, and by the State of Palestine against Israel.

47. On 19 January 2022, the ad hoc conciliation commission working on the case brought by Qatar against Saudi Arabia decided to terminate the proceedings pending between the two States parties pursuant to the decision adopted in March 2021 by the commission following the signing of the Ula Declaration (A/76/18, para. 48). The status of the case between Qatar and the United Arab Emirates is still pending. There is no agreement between the States parties on the suspension or termination of the proceedings. Qatar requested the suspension of the proceedings, while the United Arab Emirates stated its belief that such proceedings should be terminated automatically following the expiration of the one-year deadline provided in the Ula Declaration, as per the decision of the commission last year. The members of the commission are due to take a final decision on the matter.

48. Concerning the communication submitted by the State of Palestine against Israel, upon the request of the Chair of the Committee, on 30 September 2021, the secretariat of the Committee transmitted to the two States parties the list of candidates to be considered as members of the ad hoc conciliation commission. On 7 October 2021, the State of Palestine transmitted the names of the experts it chose. On 22 October 2021, Israel reiterated its rejection of the proceedings.

49. On 23 November 2021, the Bureau of the Committee, noting that the States parties concerned had not unanimously agreed on the list of candidates proposed by the Chair to take part in the ad hoc conciliation commission in accordance with article 12 (1) (a) of the Convention, and having considered that there was no prospect of reaching an agreement between the parties on the matter, suggested that the commission's members should be elected by Committee members. On 30 November 2021, during its 105th session, the Committee elected the commissioners by secret ballot by a two-thirds majority from among its members, pursuant to article 12 (1) (b) of the Convention, taking into account geographical representation. The composition of the commission is as follows: Mr. Balcerzak (Poland –

Eastern European States), Ms. Chung (Republic of Korea – Asia-Pacific States), Mr. Kut (Türkiye – Western European and other States), Ms. Shepherd (Jamaica – Latin American and Caribbean States) and Ms. Tlakula (South Africa – African States). The same day, the Committee endorsed a set of suggestions on the future work of ad hoc conciliation commissions submitted by the two commissions established for the Qatar inter-State communications earlier in 2021.

50. On 19 January and 10 February 2022, the ad hoc conciliation commission considering the communication submitted by the State of Palestine held two online meetings, during which the members discussed procedural matters. At the meeting in February, the commission adopted its rules of procedure (CERD/C/507). The members of the commission elected Mr. Kut as their Chair. It was decided that the commission would have three sessions per year, each immediately after the respective Committee session. On 2 and 3 May 2022, immediately after the Committee's 106th session, the commission held its first in-person session in Geneva. The Commission has had a first meeting with representatives of the State of Palestine. Israel did not reply to the commission's invitation.

## VI. Methods of work

51. During its 104th and 105th sessions, the Committee adopted guidelines on cooperation with national human rights institutions (CERD/C/505), guidelines on cooperation with non-governmental organizations (CERD/C/506) and internal guidelines on the elaboration of its general recommendations, prepared by Ms. Tlakula, Mr. Guissé and Ms. Stavrinaki, respectively.

52. At its 105th session, the Committee discussed ways to harmonize the reporting periodicity for all States parties in order to avoid arbitrariness. It was agreed that the Committee would include in its concluding observations the number of reports that a concerned State party has already submitted to the Committee.

53. At its 106th session, the Committee established focal points on cooperation with regional human rights mechanisms and on cooperation with other United Nations human rights bodies, respectively. The Committee appointed Mr. Balcerzak and Ms. McDougall, respectively. At the same session, the Committee appointed Ms. Esseneme as focal point on article 15 of the Convention and Mr. Vega Luna as the focal point for reprisals. The Committee also established a task force to review its rules of procedure and improve its methods of work, composed of Mr. Balcerzak, Ms. Chung, Ms. Li and Ms. Stavrinaki.

## VII. States parties whose reports are seriously overdue

### A. Reports overdue by at least 10 years

54. As at 29 April 2022, the following States parties were at least 10 years late in the submission of their reports:

Sierra Leone	Fourth periodic report overdue since 1976
Liberia	Initial report overdue since 1977
Gambia	Second report overdue since 1982
Somalia	Fifth periodic report overdue since 1984
Papua New Guinea	Second periodic report overdue since 1985
Solomon Islands	Second periodic report overdue since 1985
Central African Republic	Eighth periodic report overdue since 1986
Seychelles	Sixth periodic report overdue since 1989
Saint Lucia	Initial report overdue since 1991
Malawi	Initial report overdue since 1997
Burundi	Eleventh periodic report overdue since 1998
Eswatini	Fifteenth periodic report overdue since 1998
Gabon	Tenth periodic report overdue since 1999
Guinea	Twelfth periodic report overdue since 2000
Haiti	Fourteenth periodic report overdue since 2000
Lesotho	Fifteenth periodic report overdue since 2000
Syrian Arab Republic	Sixteenth periodic report overdue since 2000
Tonga	Fifteenth periodic report overdue since 2001
Bangladesh	Twelfth periodic report overdue since 2002
Belize	Initial report overdue since 2002
Eritrea	Initial report overdue since 2002
Equatorial Guinea	Initial report overdue since 2003
San Marino	Initial report overdue since 2003
Timor-Leste	Initial report overdue since 2004
Trinidad and Tobago	Combined fifteenth and sixteenth periodic reports overdue since 2004
Comoros	Initial report overdue since 2005
Mali	Combined fifteenth and sixteenth periodic reports overdue since 2005
Uganda	Combined eleventh to thirteenth periodic reports overdue since 2005
Bahamas	Combined fifteenth and sixteenth periodic reports overdue since 2006
Cabo Verde	Combined thirteenth and fourteenth periodic reports overdue since 2006
Côte d'Ivoire	Combined fifteenth to seventeenth periodic reports overdue since 2006

Ghana	Combined eighteenth and nineteenth periodic reports overdue since 2006
Libya	Combined eighteenth and nineteenth periodic reports overdue since 2006
Saint Vincent and the Grenadines	Combined eleventh to thirteenth periodic reports overdue since 2006
Barbados	Combined seventeenth and eighteenth periodic reports overdue since 2007
Saint Kitts and Nevis	Initial report overdue since 2007
United Republic of Tanzania	Combined seventeenth and eighteenth periodic reports overdue since 2007
Brazil	Combined eighteenth to twentieth periodic reports overdue since 2008
Guyana	Combined fifteenth and sixteenth periodic reports overdue since 2008
Madagascar	Combined nineteenth and twentieth periodic reports overdue since 2008
Nigeria	Combined nineteenth and twentieth periodic reports overdue since 2008
Antigua and Barbuda	Combined tenth and eleventh periodic reports overdue since 2009
India	Combined twentieth and twenty-first periodic reports overdue since 2010
Indonesia	Combined fourth to sixth periodic reports overdue since 2010
Mozambique	Combined thirteenth to seventeenth periodic reports overdue since 2010
Democratic Republic of the Congo	Combined sixteenth to eighteenth periodic reports overdue since 2011
Guinea-Bissau	Initial report overdue since 2011
Congo	Combined tenth and eleventh periodic reports overdue since 2012

## **B. Reports overdue by at least five years**

55. As at 29 April 2022, the following States parties were at least five years late in the submission of their reports:

Ethiopia	Combined seventeenth to eighteenth periodic reports overdue since 2013
Panama	Combined twenty-first to twenty-third periodic reports overdue since 2013
Yemen	Combined nineteenth and twentieth periodic reports overdue since 2013
Grenada	Initial report overdue since 2014
Malta	Combined twenty-first and twenty-second periodic reports overdue since 2014
Austria	Combined twenty-first and twenty-second periodic reports overdue since 2015

Lao People's Democratic Republic	Combined nineteenth to twenty-first periodic reports overdue since 2015
Maldives	Combined thirteenth to fifteenth periodic reports overdue since 2015
Chad	Combined nineteenth and twentieth periodic reports, overdue since 2016
Dominican Republic	Combined fifteenth to seventeenth periodic reports, overdue since 2016
Fiji	Combined twenty-first and twenty-second periodic reports overdue since 2016
Liechtenstein	Combined seventh and eighth periodic reports overdue since 2016

### **C. Action taken by the Committee to ensure submission of reports by States parties**

56. Following the decision taken at its eighty-fifth session to adopt the simplified reporting procedure (A/70/18, para. 56), the Committee sent a note verbale on 21 January 2015 to States parties whose periodic reports were overdue by more than 10 years, offering them the option to report under the new procedure. In a note verbale dated 30 June 2017, the Committee extended the simplified reporting procedure to all States whose periodic reports were overdue by more than five years. Through a note verbale dated 9 October 2020, a total of 58 States parties received a reminder on the availability of the simplified reporting procedure; 10 States parties have opted in.

57. At its 104th and 105th sessions, the Committee adopted, under the simplified reporting procedure, lists of issues prior to reporting for India (CERD/C/IND/QPR/20-21), San Marino (CERD/C/SMR/QPR/1) and Trinidad and Tobago (CERD/C/TTO/QPR/15-16) and sent them to the States parties concerned.

58. At its 105th session, the Committee discussed various current procedures, obstacles and relevant recommendations, including the question of reporting periodicity and the challenges faced with regard to non-reporting States parties. The Committee agreed on steps to be taken to engage with those States parties that were more than 10 years late with their periodic reports.

## VIII. Consideration of communications under article 14 of the Convention

59. Under article 14 of the Convention, individuals or groups of individuals who claim that any of their rights under the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee for consideration. A total of 59 States parties have recognized the competence of the Committee to consider such communications.<sup>4</sup>

60. Consideration of communications under article 14 of the Convention takes place in closed meetings, in line with rule 88 of the Committee's rules of procedure. All documents pertaining to the work of the Committee under article 14 are confidential.

61. From 1984 to the time of adoption of the present report, the Committee had registered 81 complaints concerning 21 States parties. Of those, 3 communications were declared admissible, 19 were declared inadmissible and 2 communications were discontinued. The Committee has adopted final decisions on the merits of 40 complaints, and declared and found violations of the Convention in 24 of them. Eighteen communications were pending consideration.

62. At its 105th session, the Committee considered communication No. 65/2018, *Kotor v. France* (CERD/C/105/D/65/2018). The case referred to alleged racial discrimination in relation to the petitioner's career progression compared to that of other employees with a similar professional profile. The Committee took note of the petitioner's allegations that the company (Renault) had discriminated against certain categories of employees, who were unable to enjoy equitable career advancement on account of their ethnic origin, and that the discrimination had been recognized by the Versailles Court of Appeal in its decision of 2 April 2008, in which the Court had ordered Renault to pay damages and legal costs and to reclassify the petitioner for the period 1984–2004. The Committee declared the communication admissible regarding the claims made under article 6 of the Convention.

63. Regarding the merits, the Committee noted the petitioner's allegation that the judgment of 2 April 2008 had been only partially implemented, since his reclassification was not put into effect. The Committee further noted the State party's arguments that it had not been possible to proceed with the reclassification in practice, as the petitioner had retired several years prior to the judgment, and that the Court of Cassation had granted full reparation to the petitioner, as it had awarded damages that included the consequences of the petitioner's reclassification. The Committee recalled that claims for compensation must be considered in every case, including in cases where no bodily harm had been inflicted but where the victim had suffered humiliation, defamation or other attacks against his or her reputation and self-esteem. The Committee considered that the harm alleged by the petitioner in connection with the failure to implement the Versailles Court of Appeal judgment impeded the making of full reparation for the racial discrimination that he had suffered. Therefore, the decision by the State party's highest court to dismiss the petitioner's claim for satisfaction and full reparation constituted a violation of article 6 of the Convention. The Committee recommended, among other things, that the reclassification of employees who were the victims of racial discrimination be explicitly taken into account in the assessment of awards of damages.

64. At its 106th session, the Committee considered communication No. 61/2017, *Pérez Guartambel v. Ecuador* (CERD/C/106/D/61/2017). The case referred to the alleged lack of recognition by the State party of a marriage performed by an indigenous authority. The Committee had declared it admissible during its 100th session (A/75/18, para. 56). In relation to the State party's argument that the Committee was not competent *ratione personae* because the author had made generic allegations in relation to the protection of indigenous rights, the Committee had decided to limit its consideration to the individual complaint presented by the petitioner, as the person directly affected by the refusal to register his marriage and by the denial of his wife's visa. The Committee further found that the petitioner, having initiated constitutional protection proceedings and having lodged an appeal, had exhausted all domestic remedies that could reasonably be considered available and effective.

<sup>4</sup> Information on the declarations can be found at <https://treaties.un.org/>.

The Committee found that, for the purposes of admissibility, the petitioner's allegations concerning articles 1 (4), 2 (1) (a) and (2), and 5 (d) (iv) of the Convention, had been sufficiently substantiated.

65. Regarding the merits, the Committee, referring to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples, indicated that such international instruments that related, among others, to the recognition of self-determination, reflected legal pluralism. That implied the understanding that different systems of governance and social regulation, based on cultural, political or historical aspects, coexisted through various authorities, such as ordinary jurisdiction and indigenous jurisdiction. The Committee noted that the State party did not recognize the petitioner's marriage because it had not been performed by State authorities established pursuant to domestic legislation. It also noted that the State party had requested the petitioner to hold another wedding before civil registry officials. The Committee considered that the above could contribute to jeopardizing cultural practices, which were a part of cultural heritage, and concluded that not only must the State party refrain from prohibiting the celebration of indigenous marriages, but that it must also recognize their validity and enter them in the civil register, as long as they were not contrary to other international human rights obligations. Therefore, considering that the petitioner did not enjoy the same civil rights as an individual whose marriage was recognized by the civil registry, the Committee declared that the State party had violated article 5 (d) (iv) of the Convention. The Committee requested the State party to enter the petitioner's marriage in the civil register; to compensate him and apologize for the violation of his rights. It also requested the State party to amend its legislation to provide for the recognition and registration of marriages performed by traditional indigenous authorities, provided that they were not contrary to the State party's human rights obligations; to train civil servants accordingly; and to disseminate the opinion widely and to translate it into the Kichwa language.

66. At its 106th session, the Committee considered communication No. 59/2016, *Nuorgam et al. v. Finland* (CERD/C/106/D/59/2016). The case referred to the inclusion of persons allegedly not fully committed to the defence of indigenous Sami rights on the Sami Parliament electoral roll. The Committee had declared it admissible during its ninety-fifth session (A/73/18, para. 48). In that decision, the Committee found that it was precluded by article 14 (1) of the Convention from reviewing the claims of the petitioners, both individuals and groups of individuals, from Norway, the Russian Federation and Sweden. It also found that it was not precluded by the State party's reservation to article 14 of the Convention from examining the communication, since, even if a communication relating to the same facts was being considered by the Human Rights Committee, the communication had been submitted by different individuals. The Committee also considered that the petitioners had exhausted domestic remedies, and that the decisions taken by the Finnish institutions, which had an impact on the composition of the State party and the equal representation of the Sami, could have a direct impact on the civil, political, economic, social and cultural rights of individual members of the Sami community and of groups of Sami individuals, under article 14 (1) of the Convention.

67. Regarding the merits, the Committee recalled that the provisions of the Convention applied to indigenous peoples. The Committee noted that the Sami Parliament enabled the effective participation of the Sami in public life as an indigenous people, which determined the enjoyment of the political rights of members of indigenous peoples under article 5 (c) of the Convention. Therefore, the Committee concluded that the Sami Parliament's composition and effective functioning affected, both individually and collectively, the rights of the petitioners under such provision. The Committee further noted that section 3 of the Act on the Sami Parliament contained a subjective requirement (self-identification as a Sami) and an objective requirement based on either mother tongue or descent. The Committee also noted that the purpose of those requirements was to ensure the representativeness of the Sami Parliament for the Sami as an indigenous people, determining that, in the specific case under consideration, the use of a descent-based distinction as an objective criterion was reasonable and justified. In addition, referring to articles 8 (1), 9 and 33 of the United Nations Declaration on the Rights of Indigenous Peoples, the Committee considered that judicial scrutiny by State courts, in the specific context of indigenous peoples' rights, should be done

in a way that was compatible with their right to determine their own identity or membership in accordance with their customs and traditions. Noting that the Supreme Administrative Court had, on several occasions, continued to make an “overall consideration”, basing itself mainly on the subjective requirement and excluding the objective requirement, the Committee concluded that the rulings issued by that Court had the capacity to artificially modify the electoral constituency of the Sami Parliament, affecting its capacity to truly represent the Sami people and their interests. The Committee therefore considered that the petitioners’ right to collectively determine the composition of the Sami Parliament and to take part in the conduct of public affairs, as protected by article 5 (c) of the Convention, had been violated.

68. The Committee recommended that the State party provide an effective remedy to the petitioners by urgently initiating a genuine negotiation for the review of section 3 of the Act on the Sami Parliament, with a view to ensuring that the criteria for eligibility to vote in Sami Parliament elections were defined in a manner that respected the right of the Sami people to provide free, prior and informed consent on matters relating to their own membership and their political participation, in accordance with article 5 (c) and (e) of the Convention.

## IX. Follow-up to individual communications

69. At its sixty-seventh session, the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications under article 14 of the Convention.<sup>5</sup>

70. At the same session, the Committee decided to add two paragraphs to its rules of procedure, setting out details of the procedure.<sup>6</sup> The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken.

71. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies that do not address the Committee's recommendations or relate only to certain aspects of the recommendations are considered unsatisfactory.

72. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 40 complaints and found violations of the Convention in 24 cases. In 10 cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

### Follow-up information received to date for cases of violations of the Convention in which the Committee provided suggestions or recommendations

<i>State party and number of cases with violation</i>	<i>Communication number and author</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory or incomplete response</i>	<i>No follow-up response received</i>	<i>Follow-up dialogue ongoing</i>
Denmark (7)	10/1997, Ziad Ben Ahmed Habassi	X (A/61/18)	X			
	16/1999, Kashif Ahmad	X (A/61/18)	X			
	34/2004, Hassan Gelle	X (A/62/18)	X			
	40/2007, Murat Er	X (A/63/18)		X incomplete		
	43/2008, Saada Mohamad Adan	X (A/66/18) 6 December 2010 28 June 2011	X partly satisfactory			
	46/2009, Mahali Dawas and Yousef Shava	X (A/69/18) 18 June 2012 29 August 2012 20 December 2013 19 December 2014	X partly satisfactory			X
	58/2016, S.A.	X (A/74/18) 5 April 2019	X partly satisfactory			X
Ecuador (1)	61/2017, Yaku Pérez Guartambel	Due July 2022				X
Finland (1)	59/2016, Anne Nuourgam et al.	Due July 2022				X

<sup>5</sup> See A/60/18, annex IV, sect. I.

<sup>6</sup> Ibid., annex IV, sect. II.

<i>State party and number of cases with violation</i>	<i>Communication number and author</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory or incomplete response</i>	<i>No follow-up response received</i>	<i>Follow-up dialogue ongoing</i>
France (1)	52/2012, Laurent Gabre Gabaroum	X (A/72/18) 23 November 2016		X unsatisfactory	X <sup>a</sup>	X
Germany (1)	48/2010, TBB-Turkish Union Berlin/Brandenburg	X (A/70/18) 1 July 2013 29 August 2013 17 September 2014 3 February 2015				X
Netherlands (2)	1/1984, A. Yilmaz-Dogan 4/1991, L.K.				X X	
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)			X	
Republic of Korea (1)	51/2012, L.G.	X (A/71/18) 9 December 2016		X partly satisfactory		X
Republic of Moldova (2)	57/2015, Salifou Belemvire 60/2016, Grigore Zapescu	X (A/73/18) 27 March 2018 X (A/76/18) 3 September 2021		X partly satisfactory X unsatisfactory		X X
Serbia and Montenegro (1)	29/2003, Dragan Durmic	X (A/62/18)				X
Slovakia (3)	13/1998, Anna Koptova 31/2003, L.R. et al. 56/2014, V.S.	X (A/61/18, A/62/18) X (A/61/18, A/62/18) X (A/71/18) 9 March 2016		X unsatisfactory		X X X
Sweden (1)	54/2013, Lars-Anders Ågren et al.	X 23 February 2021		X unsatisfactory		X

<sup>a</sup> As at the close of the period under review, the State party had not replied in relation to the submissions made by the author after the State party's reply of 23 November 2016.

## **X. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference and promotion activities related to the Convention**

73. The Committee considered the question of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Durban Review Conference at its 104th, 105th and 106th sessions.

74. Mr. Payandeh participated in a meeting of the United Nations network on racial discrimination and protection of minorities, during which the Committee's general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials was promoted. Ms. Shepherd participated in the high-level meeting of the General Assembly to commemorate the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action, held in New York in September 2021. Ms. Stavrinaki gave a presentation on general recommendation No. 36 (2020) during a webinar organized by OHCHR in partnership with the national human rights institution of France to promote that general recommendation. Mr. Kut gave a presentation on the Committee's mechanisms during a webinar, organized by the European Union, that was aimed at civil society.

## **XI. General recommendation on racial discrimination and the right to health**

75. At the 105th and 106th sessions, Ms. Stavrinaki, as Rapporteur, provided an update to the Committee on the preparations and the next steps in the drafting of a general recommendation on racial discrimination and the right to health. The Committee issued a questionnaire, available on the web page of the Committee, to prepare for the day of general discussion, to be held during its 107th session.

## **XII. Discussions on the treaty body strengthening process**

76. At its 104th session, the Committee took note of and discussed the proposal submitted by the treaty bodies' Chairs on the predictable review schedule, the focused review and the digital uplift, and took a position in that regard. The Committee also discussed the report of the thirty-third Meeting of the Chairs ([A/76/254](#)).

77. At its 106th session, the Committee met with the Chief of the Human Rights Treaty Branch at OHCHR, who updated the Committee on the current status of the review of the treaty body strengthening process. The Chief of the Civil, Political, Economic, Social and Cultural Rights Section of the Human Rights Treaty Branch at OHCHR gave a presentation to the Committee on the feasibility of the eight-year predictable review schedule. In that regard, the Committee agreed on the eight-year review schedule for State reviews.

## Annex

### Follow-up information provided in relation to cases in which the Committee adopted recommendations

1. The present annex contains a compilation of information received on follow-up to individual communications since the adoption of the previous annual report (A/76/18), as well as any decisions made by the Committee on the nature of those responses.

#### Republic of Moldova

*Zapescu, opinion No. 60/2016, adopted on 22 April 2021*

##### Issues and violations found

2. The case referred to racial discrimination suffered by a person of Roma origin in relation to a job application. The Committee found a violation of article 6 of the Convention, as domestic courts failed to apply the domestic laws against racial discrimination, in particular with reference to the reversal of the burden of proof. The Committee did not find it necessary to examine separately the petitioner's claims in respect of article 5 (e) (i), and article 7 read in conjunction with article 2 (1) (d), of the Convention.

##### Remedy recommended

3. The Committee recommended that the State party convey an apology to the petitioner and grant him adequate compensation for the damage caused. The Committee also recommended that the State party fully enforce its anti-discrimination laws: (a) through the training of judges in anti-discrimination legislation, with a view to ensuring, inter alia, that the principle of shifting the burden of proof was fully observed; (b) through the provision of clear information about available domestic remedies in cases of racial discrimination; and (c) through the strengthening of the monitoring of anti-discrimination labour standards. The State party was also requested to widely disseminate the opinion of the Committee.

##### Initial or periodic reports examined since the adoption of the opinion

4. No periodic reports of the State party have been examined by the Committee since the adoption of the opinion.

##### Previous follow-up information

5. None.

##### State party's further observations

6. In observations dated 6 September 2021, the State party informed the Committee that its legislation protected against, and aimed at eliminating, all forms of racial discrimination, and it referred to Law No. 121 of 2012, on equality, and Law No. 105 of 2018, on the promotion of employment and unemployment insurance. The agency for inter-ethnic relations, responsible for implementing article 14 of the Convention domestically, had submitted the Committee's opinion to several authorities for consultation, including several ministries, the Prosecutor-General's Office and the Supreme Court of Justice, among others. On 7 July 2021, the Superior Council of Magistracy and the prosecutor's office had issued a circular to courts across the country to examine the opinion adopted by the Committee. In addition, the prosecutor's office had issued a guide on investigation and court consideration of hate crimes, which had been sent to all prosecutors. The State party also referred to a series of training sessions for court officials and prosecutors on protection against racial discrimination, which it had been implementing since 2015. The Committee's opinion had

been submitted to the administration of the restaurant concerned for its consideration and adoption of relevant decisions.

## **Sweden**

*Ågren et al.*, opinion No. 54/2013, adopted on 18 November 2020

### **Issues and violations found**

7. The case referred to the granting of exploitation concessions by the State party to a private mining company in the petitioners' traditional territory. The Committee found a violation of article 5 (d) (v), due to the lack of consideration of the petitioners' land rights in the granting of the concessions. The Committee also found a violation of article 6 of the Convention, given the impossibility of obtaining an effective judicial review of a decision where the fundamental right of indigenous peoples to traditional territory was being questioned.

### **Remedy recommended**

8. The Committee recommended that the State party provide an effective remedy to the Vapsten Sami reindeer herding community by effectively revising the mining concessions after an adequate process of free, prior and informed consent. The Committee also recommended that the State party amend its legislation to reflect the status of the Sami as indigenous people in national legislation regarding land and resources and to enshrine the international standard of free, prior and informed consent. The State party was also requested to widely disseminate the Committee's opinion and to translate it into the official language of the State party, as well as into the petitioners' language.

### **Initial or periodic reports examined since the adoption of the opinion**

9. No periodic reports of the State party have been examined by the Committee since the adoption of the opinion.

### **Previous follow-up information from the State party**

10. In observations dated 23 February 2021, the State party explained that concessions did not equate to approval of a mining project. Thus, for the mining right to be exploited, the company must also be granted certain environmental permits by the Land and Environment Court. As the Constitution of Sweden granted independence to the courts, the Government was prevented from making any revisions to the exploitation concessions. Since the granting of the concessions in 2010 and 2012, the concession holder had not applied for land allocation for the mining project. If it were to do so, it would have to hold an initial consultation with affected individuals, in this case, the Vapsten Sami reindeer herding community.

11. In 2017, the Government had proposed some amendments to the Mineral Act, including the introduction of a compulsory requirement whereby a consultation with the individuals who presumably would be affected would have to be held prior to granting an exploitation concession. The amendments had been adopted in 2018.

12. The State party also informed the Committee that the Constitution recognized the special status of the Sami people. In 2020, the Government had proposed a bill on matters of special importance for Sami people. The bill had been drafted in consultation with the Sami Parliament. Pursuant to the bill, the Government would be obliged to consult, at an early stage, Sami representatives before decisions were made in matters which were important to them. The consultation would have to be held in good faith until an agreement was reached, or until any of the parties declared that agreement could not be reached. The principle of free, prior and informed consent did not constitute a right of veto, but rather represented a method aimed at achieving real consultation and dialogue.

13. The Committee's opinion was being translated into Swedish and Sami, and in the meantime, it had been sent in English to the Sami Parliament, the Chief Mining Inspector and other relevant authorities. It had also been published on the Government's website.

**Petitioners' reply**

14. In their reply, dated 16 June 2021, the petitioners indicated that the State party's argument that it could not review the mining concessions because the Constitution enshrined the principle of independence of the judiciary was incorrect, as the Land and Environment Court had not been involved in the case before the concessions were granted. In addition, the State party could not use its internal legislation, including its Constitution, as an excuse not to implement the recommendations issued by the Committee. Such an argument would imply that in any case reviewed by the Committee, or by any treaty body, in which the Committee recommended that the State party amend legislation or in which the courts were involved in any way, the State party could use that argument as a pretext to not implement the recommendations.

15. The petitioners indicated that the legislative amendments with regard to consultations (Mineral Act and issues of importance to the Sami), referred to by the State party, had no effect on the case at hand, as they were proposed and/or adopted after the internal decisions issued in the case.

16. The petitioners further informed the Committee that in May 2021, the company that had been granted the mining concessions in their territory had issued a press release indicating that it planned to start the mining operations soon, without even referring to the Committee's opinion.

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