



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

**Information received from the Government of Georgia
on the implementation of the concluding observations of the
Committee on the Elimination of Racial Discrimination***

[13 December 2006]

* Annexes to the report may be consulted in the files of the Secretariat.

ADDITIONAL REPORT OF GEORGIA

1. In this document, the Government of Georgia provides information with regard to the implementation of the recommendations in the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/GEO/CO/3), which were adopted following consideration of the second and third periodic reports of Georgia at its sixty-seventh session, held in August 2005.

2. The document is intended to assist the Coordinator on Follow-up in the monitoring of the implementation of the recommendations addressed to States parties in the concluding observations adopted by the Committee pursuant to the consideration of initial or periodic reports.

Information provided by the Ministry of Justice

3. In paragraph 10 of its concluding observations, the Committee recommends that the State party provide detailed information on the implementation and results of the “plan of action to strengthen protection of the rights and freedoms of various population groups of Georgia for the period 2003-2005” and encourages the State party to adopt specific legislation to protect minorities.

4. With respect to the above issue, the Ministry informs the Committee of several considerations, as set out in the paragraphs below.

5. According to paragraph 1.1 of the above-mentioned action plan, separate legislation on racial discrimination, segregation and the condemnation of any forms of apartheid has not been drafted so far.

6. Also, it is to be noted that anti-discriminatory regulations are provided for in various legislative acts currently in force in Georgia (art. 1, para. (b), of the Law on Legal Status of Foreigners; art. 10, para. (j), of the Law on Employment; art. 2, para. 3, of the Labor Code; art. 1153 of Civil Code; art. 13 of the Law on General Education; art. 3, para. 2 (h), of the Law on Higher Education; art. 4 of the General Administrative Code; art. 16 of the Law on Broadcasting, etc.)

7. As regards paragraphs 1.2 and 1.3 of the action plan, the Council of Europe Framework Convention for the Protection of National Minorities was ratified by the Georgian Parliament on 10 October 2005. At the same time, Georgia has not yet signed the European Charter for Regional or Minority Languages.

8. With respect to paragraph 1.5 of the action plan, it has to be noted that according to the law adopted by the Parliament of Georgia on 6 July 2003, a new article 142 – Racial Discrimination – was added to Criminal Code. Moreover, in compliance with the amendments made to the Criminal Code, within the framework of articles 109 (Premeditated murder under aggravating circumstances), 117 (Premeditated infliction of heavy injuries), 126 (Violence), 144 (Torture), 144 (Inhuman or degrading treatment), and 258 (Disrespect to

the deceased) commissions of the respective crimes on the grounds of racial, religious, national or ethnic intolerance are considered as aggravating circumstances.

9. As for paragraph 1.6 of the action plan that relates to the revision of article 142 of the Criminal Code (Violation of human equality), for the time being such amendments have not been made.

10. Regarding paragraph 1.7 of the action plan (on religious organizations), appropriate measures have been taken in this direction. Specifically, in April 2005, amendments were made to the Georgian Civil Code, according to which religious organizations became eligible for registration at the Ministry of Justice, as legal persons of private law. As a result, problems related to religious organizations were practically eradicated.

11. At the Ministry of Justice, the Department of State Representation in the European Court of Human Rights is functioning. Among its main tasks, there is harmonization of Georgian legislation with the standards of European Convention for the Protection of Human Rights and Fundamental Freedoms, study of legislative practice of various member States of the Council of Europe and case law of the European Court of Human Rights, inter alia with respect to the status of religious organizations. If the analysis shows the need for elaboration of a special draft law, concrete proposals will be worked out on the measures to be undertaken in this regard.

12. In paragraph 16 of its concluding observations, drawing the attention of the State party to its general recommendation 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party ensure the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention, in particular their access to justice and the right to health.

13. With regard to article 5, paragraph (a), of the Convention, which refers to the enjoyment of the right to justice for foreigners permanently or temporarily residing in Georgia, it should be mentioned that no major changes in this direction have been introduced in Georgian legislation. Article 42 of the Constitution of Georgia envisages a general provision according to which any person is entitled to apply to the court for protecting his/her rights.

14. In conformity with Order No. 308 of the Minister of Justice dated 17 February 2005, a legal person of public law – the Service of the Public Advocate – was established. Within the framework of a pilot project, initially two territorial bureaux of the Service were opened in the capital and one in each Georgian district (11 advocates in total) and started working since 1 July 2005. In the cases envisaged by articles 80 and 81 of the CPC, the advocates shall defend persons who are suspected and/or accused of committing crimes by investigatory bodies of the respective district, as well as convicts, at all stages of legal proceedings. At the same time, these advocates are providing legal consultations on criminal, civil and administrative cases for the public in general. Apart from what is mentioned above, the public advocates working at the bureaux render free professional assistance to socially vulnerable persons at all stages of legal proceedings.

15. Since February 2006, the existing bureaux have enlarged their territorial frames that currently include three Tbilisi districts and three districts outside the capital.

16. As to article 5, paragraph (c), of the Convention (political rights and the right to participate in elections), provisions of the Constitution of Georgia are of paramount importance.

17. Regarding electoral rights, it has to be noted that, according to article 28 of the Constitution, every citizen of Georgia who has attained the age of 18 shall have the right to participate in referendum or elections of state and self-government bodies. At the same time, pursuant to article 27 of the Constitution, the State shall be entitled to impose restriction on the political activity of citizens of a foreign country and stateless persons.

18. In addition, according to article 45 of the Law on the Legal Status of Foreigners dated 2005, foreigners shall not participate in elections or referendums and they cannot be elected in state or local government bodies.

19. As for article 5, paragraph (d) (iii), of the Convention (the right to nationality), there have been no noticeable amendments to Georgian legislation. It is noteworthy to mention, nevertheless, an amendment made to the Constitution in 2004, according to which citizenship of Georgia shall be granted by the President of Georgia to a citizen of foreign country, who has a special merit before Georgia or grant the citizenship of Georgia to him/her is due to State interests.

20. In compliance with Organic Law on the Citizenship of Georgia, based on regulations established by the law in question, every citizen has a right to Georgian citizenship. Moreover, the law stipulates that Georgian citizens are equal before the law regardless of their race, skin colour, language, sex, religion, political or other views, national, ethnic and social belonging, origin, property and rank status, and place or residence.

21. Within the framework of article 5, paragraph (d) (iv), of the Convention (right to marriage), it should be mentioned that, according to the Constitution, marriage shall be based upon equality of rights and free will of spouses.

22. Also, pursuant to article 39 of the Law on Legal Status of Foreigners, foreigners are entitled to marry or divorce Georgian citizens or other persons according to Georgian legislation. Foreigners residing in Georgia have the same rights and obligations in marriage and family relations as Georgian citizens. In addition, according to the Organic Law on the Citizenship of Georgia, marriage or divorce of Georgian citizen with a foreigner or a stateless person, as such, do not entail the change in the citizenship of spouses. Change in citizenship of one spouse doesn't automatically mean the change in citizenship of the other.

23. As for article 5, paragraph (d) (v), of the Convention (property rights), article 21 of the Constitution states that property and the right to inherit shall be recognized and guaranteed. The abrogation of the universal right to property, of the right to acquire, alienate and inherit property shall be impermissible. At the same time, these rights are subject to some restrictions in accordance with the law. Namely, the Constitution states that deprivation of property for the purpose of the pressing social need shall be permissible in the circumstances

as expressly determined by law, under a court decision or in the case of the urgent necessity determined by the Organic Law and only with appropriate compensation.

24. In this context, the Ministry of Justice of Georgia considers it necessary to point out that, for the time being, the Law on the Rules of Property Confiscation for Urgent Public Needs of 1999 contains some shortcomings that create serious difficulties for persons interested in property expropriation in terms of timely implementation of the rights provided them by law.

25. Pursuant to the above, a draft law on the restriction of rules for property confiscation in the case of urgent public needs has been formulated, which aims to establish timely and convenient rules for the entitlement to expropriation and for the implementation of expropriation.

26. In this context, it is worth mentioning that the Ministry of Justice worked out a draft law on property restitution and compensation for people who suffered damage during the conflict in former South Ossetian Autonomous District.

27. The draft is aimed at restituting property, and restoring rights and freedoms of persons affected by Georgian-Ossetian conflict, whose rights were roughly violated during this conflict and who did not have access to effective legal remedies due to political reasons that had nothing to do with the State, based on the rule of law and democratic principles.

28. Various NGOs and international organizations were involved in the elaboration of the above draft law, including the Venice Commission of the Council of Europe (European Commission for Democracy through Law). Recently this document has been submitted for consideration to the Parliament of Georgia.

29. With respect to the freedom of expression, it should be noted that article 5, paragraph (d) (viii), of the Convention, in compliance with article 19 of the Constitution of Georgia, guarantees everyone the right to freedom of speech, thought, conscience, religion and belief. The restriction of the freedoms enumerated is impermissible unless their manifestation infringes upon the rights of others.

30. Moreover, according to the Law on Legal Status of Foreigners, both foreigners and Georgian citizens enjoy freedom of speech, freedom of opinion, freedom of confession and faith. It is forbidden to persecute foreigners because of their opinions, speeches, confessions or beliefs and to force them to express their opinions on the issues in question.

31. It is noteworthy as well that, in June 2004, the Georgian Parliament adopted the Law on the Freedom of Speech and Expression, which contains specific regulations related to the freedom of expression.

32. Regarding the right to work reflected in article 5, paragraph (e) (1), of the Convention, it should be noted that in July 2005 the Parliament of Georgia ratified the European Social Charter.

33. A new draft Labour Code had been drafted by the Ministry of Labour, Health and Social Affairs. It was adopted by the Parliament on 25 May 2006. The Code is based on universally recognized principles of human rights and freedoms and is in conformity with internationally recognized criteria.

34. According to article 2, paragraph 3, of the Code, discrimination based on race, skin colour, language, ethnic or social belonging, nationality, origin, property and rank or status, place of residence, age, sex, sexual orientation, disabilities, religion, family status, membership in a political or professional union is absolutely prohibited in labour relations.

35. In addition, pursuant to paragraph 4 of the same article, any neutral regulation, criteria or procedure that indirectly puts a person in a disadvantaged position as compared with others being under the same circumstances is to be considered as discrimination. At the same time, according to the Code, differentiation that proceeds from the peculiarities of the job is not to be considered as discrimination, provided this difference in treatment serves a legitimate goal and is a necessary and proportionate mean to reach this goal.

36. With regard to the article 5, paragraph (e) (iv), of the Convention that addresses the issues of health care and medical assistance, it should be noted that no fundamental amendments in this direction have been made to Georgian legislation within the reporting period.

37. As to the issue of social protection, the Law on Legal Status of Foreigners should be mentioned, according to which foreigners permanently residing in Georgia have the same right to assistance, pensions and social care like Georgian citizens. The issues of social care for foreigners temporarily within the territory of Georgia and stateless persons are dealt with in compliance with Georgian legislation and relevant international treaties.

38. With respect to the right to education, it is advisable to recall that under article 35, paragraph 1, of the Constitution of Georgia, everyone has the right to receive an education and the right to free choice of the type of education.

39. In December 2004, the Parliament of Georgia adopted the Law on Higher Education, and, in April 2005, the Law on General Education, which envisage openness and equal accessibility of education for all. In addition, in compliance with the Law on General Education (art. 13, para. 7), the school shall protect, on an equal footing, the individual and collective right of persons belonging to minorities to freely use their mother tongues, to preserve and express cultural identity of their own.

40. In conformity with the Law on the Legal Status of Foreigners, and based on the regulations established by the law, foreigners residing in Georgia have the same right to education as that of Georgian citizens,.

41. As regards the right to equal participation in cultural life (art. 5, para. (e) (vi), of the Convention), it has to be noted that, according to article 34 of the Constitution of Georgia, the State shall promote the development of culture, the unrestricted participation of citizens in cultural life, the expression and enrichment of cultural originality, the recognition of national and common values and the deepening of international cultural relations.

42. In conformity with the Law on the Legal Status of Foreigners, foreigners residing in Georgia have an equal right, in common with Georgian citizens, to participate in cultural life and enjoy their leisure (arts. 32 and 37).

43. In paragraph 17 of its concluding observations, the Committee recommends that the State party provide detailed information on the situation of refugees and asylum-seekers, on the legal protection provided to them including their rights to legal assistance and judicial appeal against deportation orders, and on the legal basis for deportation. The Committee also urges the State party to ensure, in accordance with article 5 (b) of the Convention, that no refugees are forcibly returned to a country where there are substantial grounds for believing that they may suffer serious human rights violations. The Committee encourages the State party to ratify the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

44. With regard to the above recommendation, the Ministry of Justice considered it necessary to stress the issues set out in the paragraphs below.

45. After the Convention on the Status of Refugees of 1951 and its 1967 Protocol had entered into force for Georgia, some amendments were made to Georgian legislation. In particular, legal status of refugees and asylum-seekers, grounds and procedures for granting, terminating and depriving of refugee status were considered in a new manner. The same is true of provisions relating to legal, social and economic guarantees provided for refugees.

46. The issues related to the expulsion of foreigners from Georgia are regulated by the Law on the Legal Status of Foreigners, which fully reflects recommendations of the Committee for the Elimination of Racial Discrimination.

47. According to article 53 of the above law, a foreigner may be expelled from Georgia if:

- He/she illegally entered Georgia;
- Legal grounds for his/ her stay in Georgia no longer exist;
- His/her stay in Georgia is against State security interests and public order in Georgia;
- His/her expulsion is necessitated by the need to protect health, rights and legitimate interests of citizens of Georgia and persons lawfully within the territory of Georgia;
- He/she systematically violated Georgian legislation;
- He/she obtained legal grounds to enter or stay in Georgia by presenting false documents or documents not having legal force;
- He/she was sentenced to one-year or longer imprisonment for committing one or more premeditated crimes.

48. In conformity with article 54 of the above law, decision on the expulsion is being made: with respect to of article 53, paragraphs (a) and (b), by the Ministry of Justice, with respect to article 53, paragraphs (c) to (g), – by the court.

49. The decision-making body is obliged to explain to the foreigner who is to be expelled his/her rights and responsibilities. If the foreigner doesn't leave the territory of Georgia within the established timeframe, he/she must be expelled forcibly. Decision made on the expulsion of the foreigner can be appealed in conformity with rules established by law.

50. Article 58, paragraph 2, of the law states that a foreigner may not be expelled to a State where:

- He/she is persecuted due to political views or for acts which are not criminalized under the Georgian legislation;
- He/she is persecuted for activities linked to the protection of human rights and peace, progressive social-political, scientific and other creative activities;
- His/her life or health are threatened.

51. Moreover, pursuant to paragraph 5 of the same article, when making a decision on the expulsion, the following details should be taken into consideration: duration of his/her legitimate stay in Georgia; his/her personal, social, economical and other links with Georgia; possible implications for the person's family or persons permanently living with him/her, in the case of his/her expulsion.

Information provided by the Office of the State Minister on Civil Integration and the National Council on Civil Integration and Tolerance

52. The process of development of National Civil Integration Strategy (NCIS) and Action Plan has been intensified and modified since 2003. The initial plan has been revised and the new one is in the process of development. These changes occur as a result of system reform taking place in different sectors, changes in the legislation and necessity of ensuring the participatory approach and consensus of society in the setting up the strategic aims and development of concrete plan of actions.

53. In fall 2005, Georgia signed and ratified the European Framework Convention for the protection of National Minorities and it has been in force since 1 April 2006. The Parliament also developed a concept for a civic integration strategy.

54. A significant essential reform process took part in the system of law enforcement and in the education sphere.

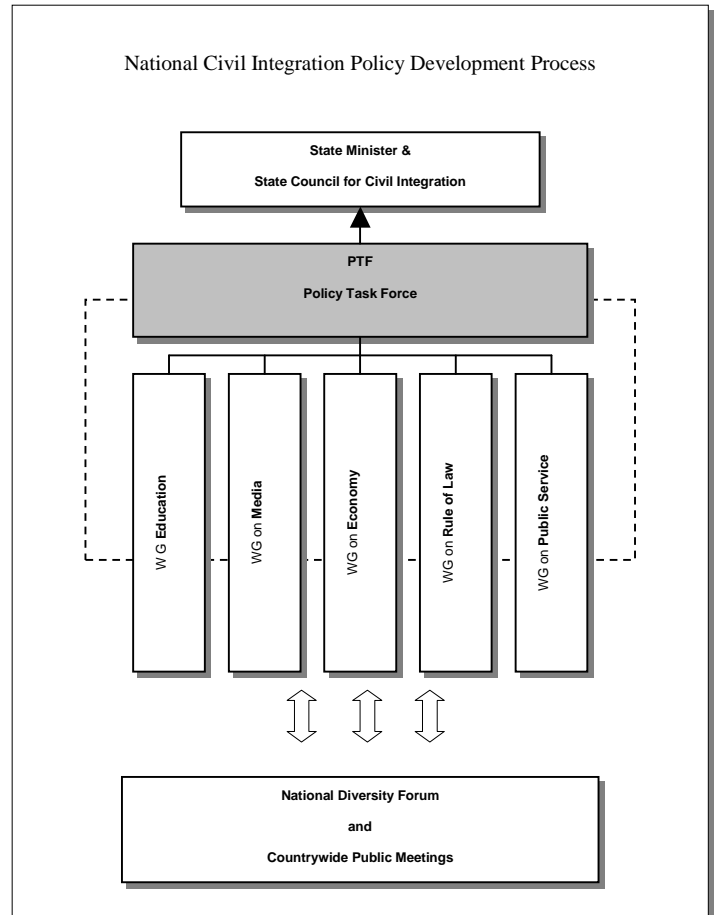
55. A National Civil Integration Strategy (NCIS) and Action Plan are being developed through participatory approach and active involvement of society and especially minority groups is ensured. Office of the State Minister on Civil Integration and State Council on Civil Integration and Tolerance will be the key institutions leading the process.

56. In order to ensure minority involvement in the policy development and implementation process and to institutionalize the commitment of the government to special extensive public discussion Memorandum of Understanding will be signed between the National Minority Council at Public Defender (Ombudsman) of Georgia and State Council on Civil Integration in September 2006. As a result the national Minority Council became a consultative body for the Government and its agencies in decision-making process.

57. To develop policy proposals, which will be prepared for the consideration of the National Minority Council and the broader society, a special Policy Task Force (PTF and working groups) are set up at the National Council on Civil Integration and Tolerance. PTF consists (but is not limited to) five working groups:

- Rule of Law
- Education
- Media
- Business & Economy
- Public service reform

58. Each working group consists of four to eight members, involves experts from the Government of Georgia and NGOs depending on the agenda of the relevant field. The task of the working group is to present policy drafts in their relevant fields. After development of NCIS policy, the task force is required to monitor implementation and to develop further changes for adequate reflection of the changing environment. Working groups are collaborating closely with relevant ministries and NGOs (think tanks). PTF members are actively involved in public discussions throughout Georgia and at other public events. The National Minority Council reviews and develops recommendations for each of the policy drafts and takes part also in country-wide public meetings.



59. The National Civic Integration Strategy and Action Plan development process proposes carrying out a baseline study to set up indicators, including perceptions and expectations of the society as a whole, regions and minority groups. Public education and awareness-raising campaigns will be carried out in partnership with the Public Broadcaster of Georgia and independent commercial media outlets.

60. In order to ensure the safeguarding of human rights and freedoms and the diversity of self-identity, there should be in place not only appropriate mechanisms for reacting to possible problems and violations (law enforcement and courts) but also monitoring mechanisms, which could provide information about possible hidden problems and general trends. Currently there are two levels at which these and similar issues are reflected and addressed in Georgia.

61. The level of State policy, legislation and governmental institutions. The law enforcement bodies are committed to fighting against any signs of discrimination on any basis, including differences in clothing or symbols, which may reflect their cultural, religious,

ethnic or other affiliation. As a result of the changes in Criminal Procedure Code, an investigation is starting by law enforcement bodies on the basis of information received from any source about a violation. This does not require application from the side of a victim. There are also hotlines established at the law enforcement institutions and General Inspections (internal surveillance bodies) which also aim at raising the effectiveness of these institutions. The court system also considers cases of discrimination or acts of violence; however, examination of court practice does not show that there are such cases now.

62. There is also a dedicated institution – the office of Public Defender (Ombudsman) of Georgia, whose main aim is to monitor the implementation of rights and freedoms guaranteed by the legislation and international documents to which Georgia is a signatory, to provide assistance and react in cases of such violations. The power and mandate of the Public Defender (Ombudsman) are wide enough to cover even relatively minor or non-systemic cases. The Public Defender (Ombudsman) can act on the basis of information received from any source, without any written or other communication from the side of the victim (www.ombudsman.ge). This is an essential provision, helping to collect real information (from relatives, NGOs, media, etc), considering that victims of intolerance are often tending to hide or not to disclose of the facts.

63. There is also an office of the State Minister on Civic Integration, which is working on these issues. By the decree of the President of Georgia, a National Council on Tolerance and Civic Integration was established in 8 August 2005. This is a coordination body that unites representatives of Parliament, ministers, Ombudsman, Court, Public Broadcasting and some NGOs. The State Council is chaired by the State Minister on Civic Integration and aims at development of national strategy and action plan in field of civic integration.

64. The level of society in general and concrete communities and civil organizations. There are several civic organizations (NGOs), whose mandate is to carry out monitoring of human rights and to develop recommendations for the Government. There are also several minority representative organizations, which unite people nation-wide or in localities by certain criteria (ethnic, religious or linguistic affiliation) and they have also advocacy agendas. During the 2004-2006 period, six minority representative councils were established, of which the two biggest are the Religious Council and the Council of National Minorities, both part of Ombudsman's Office. The latter unites more than 80 national minority organizations (including all ethnic groups residing in Georgia, some of which are represented by a number of different organizations), is a self-regulating body and became a consultative institution for the Government in developing a national strategy and action plan in the field of civic integration and tolerance-building. The Religious Council of the Office of Ombudsman unites representatives of all confessions in Georgia (24 members) , except the Georgian Orthodox Church (it cooperates with the Council) and Jehovah's Witnesses. These two Councils function under the umbrella of the Tolerance Center Public Defender (Ombudsman).

65. The Public Broadcaster is one of the main mechanisms for the promotion of tolerance and diversity. In programme priorities developed by the Board of the Public Broadcaster (see www.gpb.ge), the promotion and education of cultural, ethnic, religious diversity and tolerance was set as one of the main aims and is a standard for all other priorities.

66. The Ministry of Education, through the reform of schools and higher education, aims at building democratic institutions. One of the aims of the school reform (along with decentralization and a new model of school management, which brings schools significant autonomy in designing its profile) is the development of curricula, which will be based on values education and reflect the diversity and multi-cultural nature of the society. New curriculum and curricula-off subject as well as new text-books and teaching materials are (www.mes.gov.ge) already in the process of development, testing, accreditation and introduction. Special programmes and competitions are designed and implemented in order to ensure cross-cultural dialogue and to make school a civic integration facility. During the last two years, special grant competitions to support school partnerships nation-wide and to teach the children and the communities the cultural diversity were successfully carried out.

67. The Office of Public Defender (Ombudsman) of Georgia, through its Tolerance Centre (uniting two councils, the Religious Council and Council of National Minorities) produced and distributed a series of posters which promote human rights, freedom of consciousness and freedom of expression. From 2006 the Tolerance Centre also issues the monthly magazine *Solidarity*, which is distributed in governmental institutions, educational institutions, NGOs, minority communities, etc. The centre plans to increase its circulation to meet high demand.

68. The Media Council was established in 2005 – a representative institution of journalists, editors, media owners and NGO activists aiming at promotion of professional standards in media and ethical codes of conduct. Balanced, impartial and comprehensive coverage, as well as the promotion of democratic values are the aims of the Council's activities.

69. Thus, there is a strong political will to design and implement a real national policy on civic integration. Special institutions and mechanism in place help ensure that this process goes forward based on democratic principles and is conducted through broad consultations with the society and minority groups in particular.

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