



Human Rights Committee, Concluding Observations on Georgia, U.N. Doc. CCPR/C/79/Add.74 (1997).

Concluding observations adopted by
the 59th session of the Human Rights Committee
New York, 24 March - 11 April 1997

Distr. GENERAL
CCPR/C/79/Add.74
April 1997

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-Ninth Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES

PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee: Georgia

1. The Human Rights Committee considered the initial report of Georgia (CCPR/C/100/Add.1) at its 1564th, 1565th and 1566th meetings, on 26 and 27 March 1997, and adopted¹ the following Concluding Observations:

A. Introduction

2. The Committee notes with interest the initial report submitted by Georgia and welcomes the dialogue it has had with a high-level delegation. It notes with satisfaction that the delegation of Georgia was able to supplement the report and provide clarifications concerning the legal provisions in force and their scope, and on reform that is under way, which has enabled the Committee to have a somewhat clearer picture of the human rights situation in Georgia.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that Georgia is still experiencing the influence of the totalitarian past, which has created feelings of mistrust and insecurity among the citizens. In addition, the State party is still suffering from the effects of conflicts in South Ossetia (1992) and Abkhazia (1993-1994), which gave rise to serious violations of human rights, including massive population displacements, and the Government is having difficulty exercising its jurisdiction in those areas in respect of the protection of human rights.

C. Positive aspects

4. The Committee notes the assurances given by the Head of the State that the enjoyment of human rights would become a priority in Georgia.
5. The entry into force of the 1995 Constitution -even though the latter does not fully reproduce the rights guaranteed under the Covenant -and the establishment of the Constitutional Court, to which any citizen alleging a violation of his constitutional rights can have recourse, are viewed by the Committee as encouraging signs.
6. The Committee notes with satisfaction the abolition of the internal passport ("propiska"), which was an impediment to liberty of movement guaranteed under article 12 of the Covenant.
7. The reform of the Criminal Code and the Criminal Procedure Code, coupled with the restructuring of the "Prokuratura" that was under way with the aim of limiting the latter's role to that of a prosecuting body stripped of the prerogatives it formerly enjoyed, which enabled it to interfere in judicial decisions, are viewed by the Committee as positive progress.
8. While regretting the underrepresentation of women in the organs of government and the inequalities which persist in the economic and social spheres, the Committee is pleased that discrimination against women before the law and in terms of level of education has lessened.
9. Lastly, the Committee welcomes the State party's efforts to afford more active protection for the human rights of minorities with a view to guaranteeing the practice of their cultures and languages.

D. Principal subjects of concern

10. The Committee deplores the fact that no remedies were available to victims of the events occurring in 1992, 1993 and 1994 enabling them to seek the enforcement of their rights under article 2 of the Covenant. In that connection, the Committee notes that the State party was bound by the provisions of the Covenant as from the date on which the country became independent and hence also during the period preceding its declaration of accession, since it must be considered to have succeeded to the obligations undertaken by the former Soviet Union, of which it was an integral part up until the time when it proclaimed its independence.
11. The Committee regrets that the Covenant, although directly applicable under domestic law, is not invoked before the courts. In addition, it considers that the continuing vacancy in the post of Ombudsman, which was established in May 1996, denies an effective remedy to persons alleging a violation of their fundapp
12. The Committee regrets that, in spite of the elimination of inequalities before the law, women continue to be the victims of inequality and discrimination in the political, economic and social spheres. It further notes with concern that methods of contraception other than abortion are very difficult to obtain.
13. The Committee fears that the moratorium that has been instituted on the carrying out of death

sentences is a weak palliative. In spite of the reduction in the number of offences carrying the death penalty, such offences are still too numerous and some of them do not come within the category of the most serious crimes envisaged in article 6 of the Covenant. It also deplores the fact that some capital sentences appear to have been imposed in cases where confessions were obtained under torture or duress or following trials where the guarantees under article 14 of the Covenant were not respected, particularly the right to have a case reviewed by a higher court under article 14, paragraph 5, of the Covenant.

14. The Committee is deeply concerned by cases of torture inflicted on individuals deprived of their liberty, including for the purpose of extracting confessions from them. It deplores that these acts and other acts of torture usually go unpunished and that in many cases a lack of confidence in the authorities keeps the victims from lodging complaints.

15. The Committee deplores the abuse of resort to pre-trial detention and police custody. The duration of those measures is limited by the Constitution, but the limits are not being observed in practice in the case of many offences, in disregard of the provisions of article 9 of the Covenant.

16. The Committee is deeply concerned at the disastrous prison situation; crowding, poor sanitary conditions and lack of medical care result in a high rate of infectious disease and a very alarming mortality rate, in particular among juvenile detainees. The Committee stresses that the State party does not comply with the provisions of article 10 of the Covenant according to which all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person

17. The Committee is concerned at the continuing close relationship that exists between the procurator and the judges; it fears that, in the absence of any statute guaranteeing the independence of the magistrates, serious violations of the impartiality of decisions may occur as well as pressure by the executive on the judiciary.

18. The Committee notes with disquiet that court proceedings do not meet the conditions required by article 14 of the Covenant; in particular, although the law provides for access to the assistance of counsel, in practice this is made difficult because of excessive bureaucracy.

19. The Committee regrets that, despite the elimination of the "propiska", there remain obstacles to freedom of movement within the country; it notes with concern that there continues to be a great deal of corruption in this area.

21. The Committee emphasizes that political opponents are prosecuted because characterizations of crimes are very vague and general, and the constituent elements are hard to determine (insubordination, sabotage ...).

22. The Committee regrets that because there is nothing in the legislation concerning the exercise of freedom of association it has not been possible to establish free trade unions so that workers can exercise their rights under article 22 of the Covenant.

23. The Committee is concerned at the increase in the number of children affected by poverty and social dislocation and the concomitant increase in the number of street children, delinquents or drug-addicts.

E. Suggestions and recommendations

24. The Committee invites the Government to provide all individuals under its jurisdiction with effective remedy and to secure compensation in the event that a violation has occurred since the date of independence in 1991.
25. The Committee recommends that the State party Government appoint an Ombudsman as soon as possible and that procedures be established that would give effect to the Committee's findings pursuant to the optional protocol. The Committee urges the Government to see to the legitimacy and full powers of the Committee for Human Rights and Ethnic Relations and to define the relationship between that Committee and the ombudsman.
26. The Committee urges the authorities to continue the moratorium on executions and continue the serious efforts that have been made with a view to achieving its goal concerning the abolition of the death penalty.
27. The Committee recommends that the State Party undertake systematic and impartial investigations into all complaints of ill-treatment and torture, bring to court persons who are found guilty of violations as a result of these investigations and compensate the victims. Confessions obtained under duress should be systematically excluded from judicial proceedings and, given the admission of the State party that torture had been widespread in the past, all convictions based on confessions in which allegations of torture were made should be reviewed.
28. The Committee recommends that detention and pre-trial detention should, in practice, be effected consistent with the requirements of the Constitution and the Covenant; it stresses, *inter alia*, that all persons who are arrested must immediately have access to counsel, be examined by a doctor without delay and be able to submit an application promptly to a judge who will rule on the legality of their detention.
29. The Committee urges the State Party to take urgent steps to improve the situation in penitentiaries and, in particular, health conditions in the prisons; it invites the State Party to cut down on the use of imprisonment as a punishment for minor violations and on the use of pre-trial detention for excessive periods.
30. The Committee recommends that the authorities put an end, once and for all, to the restrictions on freedom of movement within the country and freedom to leave Georgia.
31. The Committee urges the State party to enact a law guaranteeing the independence of the judiciary and providing and total autonomy vis-à-vis the procurator and the executive.
32. The Committee urges the State Party to guarantee the rights set forth in article 14 of the Covenant, in particular by remedying the deficiencies with regard to the exercise of the right to defence and the right to appeal. The creation of an independent legal profession is, in the Committee's view, a necessary precondition for effective enjoyment of such rights.
33. The Committee earnestly recommends that the State Party, in connection with the revision of the Penal Code, that it repeal those offences which make it possible to prosecute political opponents for their beliefs under cover of upholding the law.
34. The Committee invites the State Party to enact laws making it possible for trade unions to be formed freely and to carry out their activities in defence of the rights of workers.

35. The Committee urges the State Party to take urgent steps to protect children in accordance with provisions in article 24 of the Covenant.

36. The Committee recommends that educational and training programmes drawn up with a view to developing a culture of respect for human rights in all sectors of the population, inter alia, judges, the security forces and prison personnel. These programmes should also emphasize full enjoyment by women of their fundamental rights.

37. The Committee recommends that the report of the State Party, together with the concluding observations adopted by the Committee, should be widely disseminated and that the text of the Covenant be disseminated in all languages commonly used in the country

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