

# **GUIDELINES FOR THE EARLY WARNING AND URGENT ACTION PROCEDURES**

## **Annual report A/62/18, Annexes, Chapter III<sup>1</sup>**

### **A. Introduction**

1. In 1993, the Committee on the Elimination of Racial Discrimination adopted a working paper on the prevention of racial discrimination, including early warning and urgent procedures (A/48/18, annex III). Since 1993, the Committee has adopted numerous decisions under these procedures and made recommendations to States parties to the International Convention on the Elimination of All Forms of Racial Discrimination as well as, through the Secretary-General, to the Security Council for action to prevent serious violations of the Convention, in particular those that could lead to ethnic conflict and violence.

2. The Committee adopted its working paper at the time when the development of preventive action was identified and proposed by the Secretary-General, Mr. Boutros Boutros-Ghali, in his report entitled “An agenda for peace” (A/47/277-S/24111). The General Assembly, in its resolution 47/120 of 18 December 1992, emphasized the need for all organs and bodies of the United Nations to intensify their efforts to strengthen the Organization’s role in preventive diplomacy and to continue the discussion of the Secretary-General’s report with a view to taking adequate action. This idea was subsequently discussed in various treaty bodies, as reflected in the following consideration made by the fourth meeting of chairpersons of human rights treaty bodies:<sup>1</sup>

“... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible.”

3. The current working paper aims at revising the working paper adopted in 1993, in the light of the practice of the Committee since 1993 and of the current needs and recent developments.

### **B. Need for early warning and urgent action capacity in the current world context**

4. In his keynote speech to the Stockholm International Forum on Preventing Genocide held in 2004, the Secretary-General, Mr. Kofi Annan, exhorted that there can be no more important issue and no more binding obligation than the prevention of genocide. The declaration adopted by the International Forum committed to using and developing practical tools and mechanisms to identify as early as possible and to monitor and report on genocidal threats to human life and society in order to prevent the recurrence of genocide, mass murder and ethnic cleansing.

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<sup>1</sup> At its 71<sup>st</sup> session in August 2007 the Committee adopted revised guidelines on the Early Warning and Urgent Action Procedure (EWUAP).

5. In his report entitled “In larger freedom: towards development, security and human rights for all”, the Secretary-General noted once again that “no task is more fundamental for the United Nations than the prevention and resolution of deadly conflict. Prevention, in particular, must be central to all our efforts through ... promoting democracy and the rule of law”.<sup>ii</sup>

6. In his report, the Secretary-General also called upon the United Nations High Commissioner for Human Rights to submit a plan of action (A/59/2005/Add.3), in which she reiterated the importance of prevention.

7. Since 1993, the Committee has considered a large number of situations and adopted decisions under its early warning and urgent action procedures. It has addressed the presence of serious, massive, or persistent patterns of racial discrimination, in some cases with genocidal dimensions. These have included acts of extreme violence such as bombing of villages, use of chemical weapons and landmines, extrajudicial killings, rape, and torture committed against minorities and indigenous peoples. Furthermore, the Committee adopted decisions concerning situations of, inter alia, large-scale internal displacement and refugee flows linked to racial discrimination and addressed cases of encroachment on the lands of indigenous communities, in particular exploitation of natural resources and infrastructure projects posing threats of irreparable harm to indigenous and tribal peoples. Other decisions of the Committee have addressed patterns of escalating racial hatred and violence, racial discrimination as evidenced in social and economic indicators, ethnic tensions, racist propaganda or appeals to racial intolerance, as well as the lack of an adequate legislative basis for the definition and criminalization of all forms of racial discrimination.

8. The decisions taken by the Committee have included specific requests for action: not only the submission of overdue reports by the State party concerned but also the urgent provision of specific information on the situation under consideration and on the measures taken by the State party to remedy the situation in full compliance with the Convention. Some decisions have also made reference, where relevant, to measures adopted by the Security Council on the situation concerned. Many decisions have included detailed recommendations to States parties to halt further human rights violations, to initiate a dialogue with victims of racial discrimination, and to seek technical assistance and advisory services from the Office of the High Commissioner for Human Rights. In some instances, the Committee has also offered its good offices and technical assistance, and on two occasions, field missions were conducted by Committee members. In other cases, the Committee has requested the Secretary-General to draw the attention of the competent organs, including the Security Council, to situations, and appealed for an international presence as well as regional cooperation to prevent further deterioration of the situation and to increase assistance to the victims. The Committee has also recommended to the competent United Nations organs to provide humanitarian assistance. It has frequently reminded States parties as well as the international community of their obligation to prosecute and punish perpetrators of international crimes and provide reparations to victims.

9. Since its sixty-fifth session, the work of the Committee has been facilitated by a five-member working group on early warning and urgent action procedures.

10. At its sixty-sixth session, in March 2005, the Committee held a thematic discussion on the prevention of genocide, and adopted a declaration on the prevention of genocide (CERD/C/66/1) for the consideration of the States parties, the Special Adviser to the Secretary-General on the prevention of genocide, the Secretary-General, and the Security

Council. Furthermore, at its sixty-seventh session, the Committee adopted a decision on follow-up to the declaration, identifying indicators for patterns of systematic and massive racial discrimination (CERD/C/67/1).

11. At its seventieth session, the Committee decided to request the working group to prepare a draft paper which would include terms of reference for its activities and provide an update of the 1993 working paper on the early warning and urgent action procedure, on the basis of the practice of the Committee since 1993.

### **C. Indicators for the early warning and urgent action procedure**

12. The Committee shall act under its early warning and urgent action procedure when it deems it necessary to address serious violations of the Convention in an urgent manner. The Committee shall be guided by the indicators set out below which replace the criteria in the 1993 working paper. As these indicators may be present in situations not requiring immediate attention to prevent and limit serious violations of the Convention, the Committee shall assess their significance in light of the gravity and scale of the situation, including the escalation of violence or irreparable harm that may be caused to victims of discrimination on the grounds of race, colour, descent or national or ethnic origin:

- (a) Presence of a significant and persistent pattern of racial discrimination, as evidenced in social and economic indicators;
- (b) Presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other State officials;
- (c) Adoption of new discriminatory legislation;
- (d) Segregation policies or de facto exclusion of members of a group from political, economic, social and cultural life;
- (e) Lack of an adequate legislative framework defining and criminalizing all forms of racial discrimination or lack of effective mechanisms, including lack of recourse procedures;
- (f) Policies or practice of impunity regarding: (a) Violence targeting members of a group identified on the basis of race, colour, descent or national or ethnic origin by State officials or private actors; (b) Grave statements by political leaders/prominent people that condone or justify violence against a group identified on the ground of race, colour, descent, national or ethnic origin; (c) Development and organization of militia groups and/or extreme political groups based on a racist platform;
- (g) Significant flows of refugees or displaced persons, especially when those concerned belong to specific ethnic groups;
- (h) Encroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources;
- (i) Polluting or hazardous activities that reflect a pattern of racial discrimination with substantial harm to specific groups.

#### **D. Possible measures to be taken under the early warning and urgent action procedure**

13. The Committee shall decide to consider a specific situation under its early warning and urgent action procedure on the basis of the information made available to it by, inter alia, United Nations agencies and human rights bodies, special procedures of the Human Rights Council, regional human rights mechanisms, and national human rights institutions and non-governmental organizations, that reflects serious violations of the Convention according to the above indicators.

14. The measures to be taken by the Committee under the early warning and urgent action procedure may include:

(a) To request the State party concerned for the urgent submission of information on the situation considered under the early warning and urgent action procedure;

(b) To request the Secretariat to collect information from field presences of the Office of the High Commissioner of Human Rights and specialized agencies of the United Nations, national human rights institutions, and non-governmental organizations on the situation under consideration;

(c) Adoption of a decision including the expression of specific concerns, along with recommendations for action, addressed to:

(i) The State party concerned;

(ii) The Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, or the independent expert on minority issues;

(iii) Other relevant human rights bodies or special procedures of the Human Rights Council;

(iv) Regional intergovernmental organizations and human rights mechanisms;

(v) The Human Rights Council;

(vi) The Special Adviser of the Secretary-General on the prevention of genocide;

(vii) The Secretary-General through the High Commissioner for Human Rights, together with a recommendation that the matter be brought to the attention of the Security Council.

(d) To offer to send to the State party concerned one or more of the members of the Committee in order to facilitate the implementation of international standards or the technical assistance to establish a human rights institutional infrastructure;

(e) Recommendation to the State party concerned to avail itself of the advisory services and technical assistance of the Office of the High Commissioner for Human Rights.

## **E. Terms of reference of the working group on early warning and urgent action**

### **Establishment of a working group**

15. The Committee shall, in accordance with rule 61 of its rules of procedure,<sup>iii</sup> set up a working group to meet during its sessions, or at any other convenient time to be decided by the Committee in consultation with the Secretary-General, for the purpose of making recommendations to the Committee under its early warning and urgent action procedure and assisting the Committee in any manner which the Committee may decide.

16. The Working Group shall not comprise more than five members of the Committee, to be elected for a renewable term of two years, respecting the principle of equitable geographical representation.

17. The Working Group shall elect its own officers, including the member to act as coordinator of the Working Group, develop its own working methods, and apply as far as possible the rules of procedure of the Committee to its meetings.

18. The coordinator shall: (a) convene meetings of the Working Group; (b) preside at meetings of the Working Group; (c) depart on meetings of the Working Group to the Committee; (d) fulfil other responsibilities which might be required for the proper functioning of the Working Group in consultation with the members of the Working Group.

### **Meetings**

19. Meetings of the Committee or the Working Group during which situations under the early warning and urgent action procedure will be examined shall be closed. Meetings during which the Committee may consider general issues under the early warning and urgent action procedure may be public if the Committee so decides.

20. The Working Group shall operate in close cooperation and consultation in particular with the Chairperson of the Committee, the Rapporteur of the Committee, other members of the Bureau, the Follow-up Coordinator and his or her alternate.

21. The Working Group is mandated to analyse and assess in a preliminary way information received on situations that may require urgent action; it shall make recommendations to the Committee as well as draft decisions of the Committee and letters addressed to States parties.

22. The Working Group may recommend to the Committee the adoption of any of the measures referred to in section D above.

23. The Committee may adopt in a private meeting any decision or action to be taken under the early warning and urgent action procedure.

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<sup>i</sup> A/47/628.

<sup>ii</sup> A/59/2005, para. 106.

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<sup>iii</sup> Pursuant to article 10 (1) of the international convention on the elimination of all forms of racial discrimination the committee shall adopt its own rules of procedure. According to rule 61 of its rules of procedure, the committee may, in accordance with the provisions of the convention and subject to the provisions of rule 25, set up such subcommittees and other ad hoc subsidiary bodies as it deems necessary and define their composition and mandates. Each subsidiary body shall elect its own officers and adopt its own rules of procedure.