

Complaints to the Committee on the Elimination of Racial Discrimination

Information Sheet

What is the Committee on the Elimination of Racial Discrimination?

The Committee on the Elimination of Racial Discrimination (the Committee) was established to supervise the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). One of the Committee's functions is to consider complaints from individuals who claim they have been the victim of racial discrimination by a State.

The Committee is part of the United Nations system and based in Geneva. It receives complaints via written correspondence (not by email). Complaints are referred to as 'communications'.

Who can make a complaint to the Committee?

Under Article 14 of CERD, anyone can make a complaint to the Committee if:

- they are within the jurisdiction of a State that is a party to the Convention and has recognised the competence of the Committee to receive such complaints;
- all domestic remedies have been exhausted. This includes judicial remedies (going to court) as well as any non-judicial procedures (such as making a complaint to the Human Rights Commission); and
- the communication is not anonymous.

What happens after a complaint has been made?

If the complaint meets the criteria above, the Committee will bring the matter to the attention of the State involved. The identity of the individual will not be revealed unless consent is given. The State has three months to provide a written response.

The Committee will then consider the matter in light of all the information provided by both the individual and the State, and give its opinion as to whether the complaint is admissible and whether the individual's rights under CERD have been violated. The opinions of the Committee are not legally binding but have moral and political force.

New Zealand and Article 14 of CERD

New Zealand has not yet recognised the competence of the Committee to receive individual complaints. In 1972, when New Zealand became a party to CERD, very few States had accepted the individual complaints procedure and it was unknown how it would work in practice. Now, over 50 States have recognised the competence of the Committee to receive complaints and it is appropriate that New Zealand re-examines whether it should do the same.