



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Concluding observations on the combined third to fifth periodic reports of Romania\*

1. The Committee on Economic, Social and Cultural Rights considered the combined third to fifth periodic reports of Romania on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ROU/3-5) at its 58th and 59th meetings (E/C.12/2014/SR.58 and 59), held on 20 and 21 November 2014, and adopted, at its 70th meeting (E/C.12/2014/SR.70), held on 28 November 2014, the following concluding observations.

##### A. Introduction

2. The Committee welcomes the submission, albeit late, of the combined third to fifth periodic reports of Romania, the written replies to the list of issues (E/C.12/ROU/Q/3-5/Add.1) and the statistical data contained therein. However, the written replies did not cover articles 11 to 15 of the Covenant. The Committee also welcomes the opportunity to engage with the State party's delegation and expresses appreciation for the frank and constructive dialogue and the information provided in writing during and after the dialogue. However, it regrets the absence of State representatives from the capital in the delegation.

##### B. Positive aspects

3. The Committee welcomes the State party's ratification of the following human rights instruments since the last dialogue in 1994:

- (a) The Convention on the Rights of Persons with Disabilities, in January 2011;
- (b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in July 2009;
- (c) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in August 2003;
- (d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in October 2001, and the

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\* Adopted by the Committee at its fifty-third session (10–28 November 2014).



Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in November 2001;

(e) The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, in January 2006;

(f) The Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect to Parental Responsibility and Measures for the Protection of Children, in November 2006;

(g) International Labour Organization Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in December 2000.

4. The Committee welcomes the following legislative and policy measures taken by the State party:

(a) The adoption of Law 257/2013 on the Promotion and Protection of the Rights of the Child, measures in the field of child protection, including the re-establishment, as of April 2014, of the National Authority for the Protection of the Rights of the Child;

(b) The adoption of a new strategy for gender equality 2014–2017;

(c) The National Strategy for Employment 2014–2020.

## C. Principal subjects of concern and recommendations

### Domestic application of the Covenant

5. The Committee regrets the fact that, although the Covenant takes precedence over domestic laws, the State party has not provided information on cases in which the Covenant has been applied by domestic courts.

**The Committee recommends that the State party take the appropriate steps to increase judges', lawyers' and prosecutors' familiarity with the Covenant in order to ensure that its provisions are taken into account in domestic court decisions. It also draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

### National human rights institution

6. The Committee notes that the areas of competence of the various institutions and bodies promoting and protecting human rights and combating discrimination, particularly the Romanian Institute for Human Rights, the Ombudsman, and the National Council for Combating Discrimination, overlap, which reduces their effectiveness in terms of mandate and resources. Furthermore, the Committee is concerned that the Romanian Institute for Human Rights does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

**The Committee recommends that the State party reinforce the independence, efficiency and effectiveness of the institutions promoting and protecting human rights and combating discrimination in Romania, including by clarifying their competencies and streamlining their structures, and ensuring that they benefit from adequate human and financial resources to contribute to the implementation of economic, social and cultural rights. The Committee also recommends that the State party adopt the necessary measures to enable the Romanian Institute for Human Rights to fully comply with the Paris Principles.**

### Maximum available resources

7. The Committee is concerned that the resources allocated to social sectors, notably health, social protection and education, remain inadequate. In addition, the Committee regrets that the State party has not been able to fully absorb and utilize the funds allocated to it by the European Union owing to limited administrative capacity, excessive bureaucracy and instances of corruption (art. 2, para. 1).

#### **The Committee recommends that the State party:**

(a) **Ensure that resources are effectively allocated according to programme budgeting criteria, and increase political awareness of the need to allocate substantial additional resources to the social protection system, health and education;**

(b) **Regularly assess whether the maximum available resources have been used to progressively achieve the full realization of the rights recognized in the Covenant, taking into account the Committee's statement of September 2007 on the obligation to take steps to the "maximum of available resources" (E/C.12/2007/1);**

(c) **Improve administrative capacity and increase transparency and consultations at all levels of decision-making concerning the distribution and use of structural funds and the ongoing evaluation of their impact on the realization of economic, social and cultural rights.**

### Corruption

8. The Committee remains concerned about the high extent of corruption in the State party, and its impact on the full enjoyment of economic, social and cultural rights by the population, despite numerous measures taken to combat it. The Committee is concerned that the low salaries of civil servants, health and education personnel and the lenient penalties applied in cases of corruption may obstruct the effective implementation of those measures (art. 2, para. 1).

**The Committee recommends that the State party enhance the effectiveness of the legal, structural and policy measures to combat corruption in Government, public administration and the judiciary, and that it investigate and effectively sanction illegal conduct. The Committee also recommends that the State party take the necessary measures to prevent corruption, including payment of adequate salaries, and raise awareness about the detrimental impact of corruption on the allocation of adequate resources for the fulfilment of economic, social and cultural rights.**

### Social exclusion and discrimination against the Roma

9. The Committee is concerned that the Roma continue to experience widespread discrimination and social exclusion, especially in the areas of housing, education, health and employment, despite the numerous plans and strategies implemented by the State party. It notes with concern that the fact that the Roma tend to lack personal documents, which are necessary for them to access social insurance, health care and other benefits, further exacerbates the discrimination. The Committee welcomes the adoption of the Strategy for the Inclusion of Romanian citizens belonging to the Roma Minority 2012–2020 and sectoral action plans. However, the Committee is concerned that no baseline study was conducted to ground the policy measures in accurate data, that there is a lack of indicators to assess progress in implementing the Strategy, and that the budget allocations are insufficient for its effective implementation. The Committee also regrets the lack of disaggregated data on the situation of Roma communities in the State party, which represents another significant obstacle in assessing the impact of measures undertaken.

Furthermore, the Committee is concerned at the prevailing hostility of public opinion towards the Roma (art. 2, para. 2).

**The Committee recommends that the State party adopt a human rights-based approach in addressing discrimination against the Roma, including by:**

(a) **Collecting disaggregated statistical data, on the basis of self-identification, on the number of Roma living in the country and on their access to employment, social security, housing, health care and education, with a view to formulating, implementing and monitoring targeted and coordinated programmes and policies at the national level aimed at improving their socioeconomic situation;**

(b) **Pursuing the efforts made to provide the Roma with personal documents, including birth certificates, which are necessary for the enjoyment of their rights under the Covenant;**

(c) **Ensuring that the Strategy and action plans on Roma inclusion contain specific measures aimed at addressing the problems faced by the Roma in accessing employment, social security, housing, health care and education;**

(d) **Continuing to address negative prejudices and stereotypes, which are among the underlying causes of the systemic discrimination and social exclusion experienced by the Roma.**

#### **Gender equality**

10. The Committee is concerned that women are still significantly underrepresented in public offices, particularly in elected and appointed national and local government bodies (arts. 3 and 6).

**The Committee recommends that the State party consider:**

(a) **Introducing temporary special measures, such as quotas, for candidates to elections and public offices with a view to promoting gender equality;**

(b) **Strengthening measures, such as childcare services and parental leave, with a view to achieving a more balanced sharing of professional and family responsibilities between women and men.**

#### **Unemployment**

11. The Committee is concerned at the low overall employment rate in the State party and the level of high long-term unemployment. It is particularly concerned that, despite targeted measures, the rate of unemployment among young persons, Roma, and persons with disabilities remains high. In addition, the Committee notes with concern that 16.8 per cent of people between 15 and 24 years were neither in employment nor in education or training in 2012 (arts. 2, para. 2, and 6).

**The Committee recommends that the State party step up its efforts to further reduce unemployment, in particular unemployment among young people, Roma, and persons with disabilities, including by:**

(a) **Prioritizing vocational training, especially for the long-term unemployed in order to strengthen their position in the labour market, taking into account the needs of disadvantaged and marginalized individuals and groups;**

(b) **Pursuing and strengthening the programmes addressing youth unemployment and maintaining the incentives for employers who create new jobs for young people, including young graduates with disabilities, and youth with a social**

marginalization risk, and ensuring that individuals so employed retain their jobs when such incentives are no longer offered;

(c) **Ensuring effective compliance by public and private companies and institutions with the 4 per cent quota for the employment of persons with disabilities, including by providing for dissuasive sanctions for employers in case of non-compliance;**

(d) **Adopting a revised action plan addressing the insufficiencies of the Strategy for the Inclusion of Romanian citizens from the Roma community in order to ensure that the Roma enjoy equality of opportunity and treatment in employment and are provided with sustainable income-generating opportunities, including by enhancing their training skills.**

#### **Asylum seekers**

12. The Committee notes with concern that asylum seekers are not allowed to work during the first year of their stay in the State party and therefore depend on the subsistence allowance. The Committee is also concerned that the amount of allowance provided to asylum seekers is not sufficient to cover their basic needs (arts. 6 and 11).

**The Committee recommends that the State party take the appropriate steps to amend its legislation allowing asylum seekers to obtain a work permit within one year after their arrival in the State party. The State party should also enforce the Asylum Law and ensure that the allowance granted to asylum seekers is sufficient to cover their basic needs.**

#### **Minimum wage**

13. The Committee is concerned that, despite recent increases, the minimum wage set in the State party is not sufficient to provide recipients and their families with a decent living (arts. 7 and 9).

**The Committee recommends that the State party establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living, providing recipients and their families with a decent standard of living.**

#### **Trade union rights**

14. The Committee is concerned at the reported practice of certain employers who make employment conditional upon the worker agreeing not to create or join a trade union (art. 8).

**The Committee recommends that the State party take the necessary measures to guarantee full protection against acts of anti-union discrimination, including by imposing sufficiently dissuasive sanctions on employers who violate workers' rights to create or join trade unions.**

#### **Social security**

15. While taking note that some of the cuts that were introduced to social security benefits owing to austerity measures have been reversed, the Committee remains concerned that the amounts of the benefits, such as child-raising allowance, unemployment benefits, the minimum pension and other social assistance benefits, are not sufficient to ensure an adequate standard of living for the recipients and their families (art. 9).

**The Committee recommends that the State party take the necessary measures to ensure that the amounts of benefits, such as child-raising allowance, unemployment**

benefits and the minimum pension, are sufficient to provide the recipients and their families with a decent standard of living. The Committee also recommends that the State party reconsider cuts and eligibility criteria for social assistance benefits insofar as they affect the most disadvantaged and marginalized groups, in compliance with the human rights-based approach. The Committee refers the State party to the letter concerning austerity measures, which was sent to all States parties to the Covenant by the Chairperson of the Committee on 16 May 2012, and to its general comment No. 19 (2007) on the right to social security.

#### **Social services**

16. The Committee is concerned that the decentralization of social services has led to disparities in the provision of social care in the State party.

**The Committee recommends that the State party establish appropriate mechanisms to monitor and ensure adequate provision of social care services at the local level through an effective distribution of resources and accountability of local authorities in the delivery of such services.**

#### **Poverty**

17. The Committee is concerned that the level of poverty remains among the highest in Europe, with 41.7 per cent of the population at risk of poverty or social exclusion in 2012. The Committee is also concerned that children, older persons, persons with disabilities and the Roma are particularly affected by extreme poverty, with 70 per cent of Roma living below the poverty line in 2011 (art. 11).

**The Committee strongly urges the State party to intensify its efforts to combat poverty, especially among the most disadvantaged and marginalized members of the population, and to reduce disparities in poverty levels between regions. In that respect, the Committee draws the State party's attention to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).**

#### **Adequate housing**

18. The Committee is concerned that the majority of Roma continue to live in substandard housing conditions, without safe drinking water or sanitation facilities, electricity, heating, sewage, waste disposal or legal security of tenure, which exposes them to the risk of eviction. The Committee is also concerned at the limited number of social housing units available and the absence of a monitoring mechanism to ensure that the allocation of social housing is transparent and non-discriminatory.

**The Committee recommends that the State party adopt all appropriate measures to ensure access to adequate housing for the Roma, inter alia by ensuring that adequate resources are allocated to increase the supply of social housing units, giving priority in the assignment of such dwellings to disadvantaged and marginalized groups, particularly Roma. The Committee draws the State party's attention to its general comment No. 4 (1991) on the right to adequate housing.**

#### **Forced evictions**

19. The Committee is very concerned at cases of forced eviction of Roma from irregular settlements, often without genuine prior consultation and reasonable notice, and at their relocation to unsafe or polluted sites, which threaten their lives and health. It is also concerned that the Roma are often relocated to segregated areas where access to work, education, health and other services is difficult. The Committee is particularly concerned

about reports that, upon eviction, some families with children were left without adequate alternative housing, compensation and protection (art. 11).

**The Committee urges the State party to amend its national legislation to provide a minimum degree of security of tenure for persons living in informal settlements, and to adopt legislation to ensure that evictions are carried out in compliance with international human rights standards, and that remedies are effectively provided to those affected by eviction orders. In particular, the State party should prevent forced evictions of Roma from taking place until the Roma concerned have been consulted, afforded due process guarantees and provided with alternative accommodation or compensation enabling them to acquire adequate accommodation. The Committee draws the State party's attention to its general comment No. 7 (1997) on forced evictions.**

#### **Water and sanitation**

20. The Committee notes with concern that access to safe drinking water is insufficient, particularly in rural areas where only one third of the population has access to a centralized drinking water supply. The Committee is also concerned at the poor access to adequate sewage and sanitation systems in rural areas and informal settlements, and at deficiencies in sewage treatments, which are causing water pollution (arts. 11 and 12).

**The Committee calls upon the State party to intensify its efforts to ensure universal access to safe drinking water, as well as access to adequate sewage and sanitation facilities, particularly in rural areas and for the most disadvantaged and marginalized groups. The Committee draws the State party's attention to its general comment No. 15 (2002) on the right to water and its statement on the right to sanitation (E/C.12/2010/1).**

#### **Health-care system**

21. The Committee is concerned that Romania has a low life expectancy at birth, and very high infant and maternal mortality rates. It is also concerned about the inequalities in terms of access to and quality of health services, especially in rural and remote areas and for disadvantaged and marginalized groups, and regrets that the decentralization process has led to a decrease in the number of Roma Health Mediators. Furthermore, cases of alleged segregation of Roma patients in sub-standard hospital wards and negligent treatment of those patients are of particular concern to the Committee. The Committee is further concerned that the practice of payments of non-official fees persists, despite measures taken to combat corruption (art. 12).

**The Committee calls on the State party to continue health sector reforms and substantially increase funds allocated to public health. It recommends that the State party intensify its efforts to ensure de facto access to affordable, good quality and timely health care and medical treatment for all segments of the population, including persons living in rural and remote areas, as well as disadvantaged and marginalized individuals and groups. In order to curb infant and maternal mortality, the State party should thoroughly assess the causes of all cases of mortality and develop specific and adapted strategies in that regard. The number of community nurses and Roma Health Mediators should be increased and all cases of discrimination and segregation of patients should be severely punished. The Committee also calls on the State party to take the necessary measures to fight corruption in the health sector so that non-official fees are not collected from patients.**

### **Sexual and reproductive health**

22. The Committee is concerned at the significant number of unwanted teenage pregnancies, the high number of abortions, the limited access to sexual and reproductive health education and services, especially in rural areas, and the limited availability of contraceptives free of charge in the State party. As a result, the Committee is concerned that, although abortion is legal in the State party, women continue to have to resort to illegal and unsafe abortions. It notes with concern that health professionals are increasingly invoking conscientious objection, thus in practice hindering access to safe abortion. The Committee expresses concern at cases of discrimination against women living with HIV/AIDS in access to sexual and reproductive health, as well as the inadequacy of mother-to-child HIV transmission prevention.

**The Committee calls on the State party to adopt a national strategy on sexual and reproductive health and to intensify its efforts to prevent unwanted teenage pregnancies, including through the implementation of a comprehensive and mandatory programme on sexual and reproductive health in schools. The Committee urges the State party to ensure that sexual and reproductive health services, including abortion and contraception services and information, are available, accessible and affordable without discrimination, including to adolescents. It recommends that all pregnant women and girls have access to specialized medical care, including measures to prevent mother-to-child HIV transmission.**

### **Education**

23. The Committee is concerned that, although primary education should be provided free of charge, parents are burdened with extra school payments for various purposes. While recognizing recent progress, the Committee notes that the quality of education and training in the State party should be subject to considerable improvement. The Committee expresses concern at the high percentage of Roma children who have no formal education and at the high dropout rates, despite the measures the State party has taken in this regard. The Committee is also concerned at cases that indicate that the practice of segregating Roma children and children with disabilities persists in the school system (art. 13).

**The Committee calls on the State party to:**

- (a) Strengthen the implementation of existing measures to improve access to and quality of primary and secondary education for all children;**
- (b) Substantially increase the budget allocated to education;**
- (c) Ensure that access to free primary education is not impeded in reality by additional material costs and informal fees;**
- (d) Strengthen its efforts to address the economic, social and cultural factors identified as root causes of the persistently high school dropout rates;**
- (e) Increase the number of Roma School Mediators, conduct campaigns to raise awareness among Roma families of the importance of education, and continue to offer related incentives;**
- (f) Pursue its efforts to combat the segregation in schools of Roma children and children with disabilities, amend Law No. 1/2011 on National Education to introduce a prohibition of segregation in schools, ensure the effective enforcement of Order No. 1540/2007 against Roma segregation in school and the establishment of a body to monitor its application, and raise awareness of the prohibition among teachers and the population at large;**

(g) Take into consideration the Committee's general comment No. 13 (1999) on the right to education.

#### **Linguistic and cultural rights of national minorities (art. 15)**

24. The Committee notes with concern the limited availability of publications and television and radio programmes in minority languages and about national minorities, their history and their culture.

**The Committee recommends that the State party create favourable conditions to enable national minorities to express and develop their culture, traditions and customs in their own language. It also recommends that additional measures be taken in the field of education and information to encourage knowledge of the history, traditions and culture of various groups, including the Roma community, living in the State party.**

#### **D. Other recommendations**

25. While welcoming the contribution of the State party to official development assistance, the Committee encourages the State party to gradually increase its official development assistance with a view to achieving the international commitment of 0.7 per cent of its gross national product (GNP) and to pursue a human rights-based approach in its development cooperation policy, fully incorporating the rights contained in the Covenant.

26. The Committee recommends that the State party establish a statistical data collection system to assess the level of enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, including but not limited to Roma and persons with disabilities. In so doing, the State party should ensure due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.

27. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

28. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, particularly among government officials, parliamentarians, judicial authorities and civil society organizations, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

29. The Committee invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).

30. The Committee requests the State party to submit its sixth periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2019.