



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the fifth periodic report of Romania\*

1. The Committee considered the fifth periodic report of Romania (CCPR/C/ROU/5) at its 3428th and 3429th meetings (see CCPR/C/SR.3428 and 3429), held on 25 and 26 October 2017. At its 3444th meeting, held on 6 November 2017, it adopted the present concluding observations.

#### A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/ROU/QPR/5). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the following legislative measures taken by the State party:

- (a) Law No. 429/2003 on the revision of the Constitution;
- (b) Law No. 286/2009 on the new Criminal Code and Law No. 135/2010 on the new Criminal Procedure Code;
- (c) Law No. 287/2009 on the new Civil Code and Law No. 134/2010 on the new Civil Procedure Code;

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 10 November 2001;
- (b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 31 January 2001;

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\* Adopted by the Committee at its 121st session (16 October-10 November 2017).



(c) The Optional Protocol to the Convention of the Elimination of All Forms of Discrimination against Women, on 25 August 2003;

(d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 2 July 2009;

(e) The International Convention on the Rights of Persons with Disabilities, on 31 January 2011.

## **C. Principal matters of concern and recommendations**

### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

5. While noting with appreciation the status of the Covenant in the domestic legal order, the Committee regrets the lack of information about the application of the provisions of the Covenant by domestic courts (art. 2).

**6. The State party should strengthen its efforts to promote the effective application of the provisions of the Covenant in domestic courts and continue to train lawyers, prosecutors and judges on international human rights treaties and to conduct awareness-raising activities for the public at large.**

7. The Committee is concerned about allegations of persistent corruption in all branches of Government, including the judiciary and prosecutors, and its negative impact on the full enjoyment of the rights guaranteed by the Covenant and by parliamentary initiatives to reverse anti-corruption legislation. The Committee is also concerned about reports that the head of the National Anti-Corruption Directorate (DNA) was subjected to harassment in connection with her work (arts. 2 and 14).

**8. The State party should strengthen its efforts to combat corruption in all branches of Government and provide the necessary protection to officials involved in anti-corruption efforts.**

### **National human rights institutions**

9. The Committee notes the existence of national institutions mandated to protect human rights, including the Ombudsman, the National Council for Combating Discrimination and the Romanian Institute for Human Rights. It regrets that none of those institutions has been accredited as fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

**10. The State party should take all the measures necessary to make sure that its national institutions for human rights are fully compliant with the Paris Principles, and ensure their independent, transparent and effective functioning.**

### **Equality and non-discrimination of Roma**

11. The Committee reiterates its concern about reports of persistent discrimination against the Roma population, including in the fields of health, education, employment and housing. It is also concerned about reports of the continuing de facto segregation of Roma children in schools, the lower standard of school education, forced evictions of Roma without adequate advance notice or the possibility of legal challenge and without support by governmental agencies to access adequate alternative accommodation, and discrimination in the health sector having a negative impact on the health status and life expectancy of Roma. The Committee is further concerned about the insufficient progress in implementing the government strategy for inclusion of Romanian citizens belonging to the Roma minority and insufficient disaggregated data concerning the Roma population (arts. 2, 6, 17, 26 and 27).

**12. The State party should intensify its efforts and take measures to address systemic discrimination against the Roma population, including ensuring that the local authorities are accountable for actions taken contrary to anti-discrimination**

legislation. It should ensure that the law provides adequate safeguards against forced evictions; reinforce its efforts to implement measures to promote the inclusion of Roma children in mainstream schooling, including enrolment of Roma children in preschool; and implement measures to promote the equal access of Roma to health services. The State party should ensure the effective implementation of the strategy for the inclusion of Roma, including by allocating sufficient funding, and the effective coordination and accountability of local authorities. The State party should also establish a comprehensive data collection system to assess the scale of discrimination against Roma and other minorities.

#### **Racially motivated attacks**

13. The Committee is concerned about allegations of racially motivated incidents against the Roma population and allegations of police abuse amounting to ill-treatment, especially targeted against Roma (arts. 7 and 20).

**14. The State party should strengthen measures to prevent racially motivated attacks against the Roma population and to ensure that the alleged attacks are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to adequate compensation.**

#### **Discrimination on the grounds of sexual orientation and gender identity**

15. The Committee is concerned about reports of discrimination against lesbian, gay, bisexual, transgender and intersex persons, especially in employment and education, incidents of verbal and physical attacks against such persons and stereotypical attitudes and prejudice against them. The Committee is also concerned about reports of attempts to revise domestic law that would limit rights guaranteed under the Covenant. It is further concerned about the lack of clarity in legislation and procedures concerning the change of civil status with respect to gender identity (arts. 2 and 26).

**16. The State party should take measures to eliminate discrimination and combat stereotypical attitudes and prejudices against lesbian, gay, bisexual, transgender and intersex persons; ensure that acts of discrimination and violence against such persons are investigated, that perpetrators are held accountable and that victims have access to reparation. It should ensure that legislation concerning the change of civil status with respect to gender identity is clear and applied in accordance with the rights guaranteed under the Covenant.**

#### **People living with HIV/AIDS**

17. The Committee is concerned about discrimination against people living with HIV/AIDS, especially discrimination faced by women living with HIV/AIDS in accessing sexual and reproductive health services (arts. 2 and 26).

**18. The State party should strengthen efforts to ensure equal treatment of persons living with HIV/AIDS. It should also ensure full and equal access of women living with HIV/AIDS to specialized medical care.**

#### **Persons with disabilities**

19. The Committee is concerned about reports of discrimination against persons with disabilities in employment and education, including a lack of support measures to ensure genuine inclusion of children with disabilities and limited access to public buildings and transportation (arts. 2, 24 and 26).

**20. The State party should intensify its efforts to protect persons with disabilities from discrimination of any kind and ensure non-discriminatory access to education, employment, as well as public transportation and public buildings.**

#### **Equality between men and women**

21. The Committee welcomes the re-establishment of the National Agency for Equal Opportunities for Women and Men and commends its efforts in promoting gender equality.

It is nevertheless concerned about persisting gender inequality, including underrepresentation of women in decision-making positions in public and political life and inequality in the field of employment, such as the existing gender pay gap. The Committee is further concerned about the low number of cases relating to gender discrimination (arts. 2, 3 and 26).

**22. The State party should strengthen its efforts to promote gender equality and women's participation in decision-making positions in public and political life. It should also strengthen its efforts to increase the number of women in decision-making positions in public and political life, including, if necessary, through appropriate temporary special measures. The State party should implement effective measures to continue to combat the gender pay gap and the concentration of women in low-paid employment.**

#### **Violence against women and children, including domestic violence**

23. The Committee reiterates its concern at the high number of cases of domestic violence, including violence against children, and allegations that violence against women and children remain underreported. The Committee is also concerned about the high rate of withdrawal of complaints by victims, the limited scope of ex officio prosecution, the manner in which mediation is used and the insufficient commitment by the State party to address domestic violence effectively (arts. 2, 3, 7, 24 and 26).

**24. The State party should strengthen its efforts to prevent and suppress domestic violence against women and children, including: (a) by taking further action to raise awareness of the unacceptability and adverse impact of violence against women and children; (b) by enforcing the prohibition of corporal punishment in Law No. 272/2004; and (c) by ensuring that all reports of domestic violence are promptly, thoroughly and effectively investigated, including, where appropriate, through ex officio channels, that perpetrators are prosecuted and, if convicted, punished with commensurate sanctions and that victims have access to effective remedies and means of protection. It should also intensify training for State officials, in particular law enforcement officials, judges, prosecutors and health professionals, to ensure that they are able to respond promptly and effectively to cases of domestic violence.**

#### **Sexual and reproductive health**

25. The Committee is concerned about the high rate of teenage pregnancies and the high maternal and infant mortality rates that disproportionately affect Roma. The Committee is also concerned about reports of women resorting to clandestine and unsafe abortions, which put their lives and health at risk. The Committee is further concerned about the obstacles faced in practice by women in accessing safe legal abortions (arts. 2, 3, 6, 7, 17, 24, 26 and 27).

**26. The State party should intensify efforts to prevent the high number of early pregnancies and unsafe abortions, including through effective mandatory age-appropriate educational programmes in schools on sexual and reproductive health. The State party should disseminate information about modern methods of contraception and enhance access to contraceptives. It should ensure that women have effective access to safe legal abortions and post-abortion care, especially in rural areas, and that women are not obliged, as a consequence of conscientious objection on the part of medical staff, to resort to unsafe abortions, which put their lives and health at risk. The State party should continue its efforts to eliminate preventable maternal and infant mortality and ensure non-discriminatory access to affordable quality health care for all women and girls, especially Roma and those residing in rural areas.**

#### **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment**

27. The Committee is concerned about the high number of reports of abuse and ill-treatment of persons deprived of their liberty, allegations of police brutality, especially against Roma, and the reported lack of investigation of those allegations (art. 7).

28. **The State party should urgently strengthen its efforts to take measures to prevent acts of torture and ill-treatment, especially against Roma. The State party should ensure that allegations of torture or ill-treatment are promptly and impartially investigated, that those responsible are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies. It should also establish an independent and effective complaints mechanism on ill-treatment with regard to police abuse.**

#### **Ill-treatment in public care facilities**

29. The Committee is concerned about the placement, living conditions and treatment of persons in psychiatric establishments and related institutions, including deprivation of legal capacity, inadequate living conditions, reports of abuse and ill-treatment, including allegations of forced medical treatment, and lack of independent monitoring of those institutions and effective investigation of alleged abuses in these institutions. It is also concerned about allegations of ill-treatment and unnatural deaths of persons with disabilities occurring in residential institutions, including accounts of physical and verbal abuse, sedation and excessive use of physical restraints and a lack of hygiene (arts. 6, 7, 9 and 10).

30. **The State party should, as a matter of urgency, ensure that treatment of persons with mental, intellectual and psychological disabilities is in conformity with the Covenant by: (a) improving living conditions and treatment in public care facilities, for persons with disabilities and persons in psychiatric institutions; (b) taking appropriate measures to ensure that persons with disabilities are not discriminated against in the enjoyment of their rights; (c) taking all measures necessary to implement a policy of deinstitutionalization of persons with disabilities accompanied by appropriate community-based support; (d) ensuring that any restrictions are legal, necessary and proportionate to the individual circumstances and include guarantees of an effective remedy; and (e) pursuing legal amendments in order to eliminate full deprivation of legal capacity and strengthen efforts to restore the legal capacity of persons with disabilities. The State party should also strengthen independent monitoring of institutions and complaints mechanisms, thoroughly investigate allegations of abuse and prosecute those responsible, and ensure independent representation of persons with disabilities in any proceedings to safeguard their rights.**

#### **Liberty and security of person and treatment of persons deprived of their liberty**

31. The Committee is concerned about reports of poor living conditions in places of deprivation of liberty, including lack of access to medical care, substandard hygiene, limited time outside cells and overcrowding. The Committee is also concerned about understaffing and shortages of medical staff in penitentiary facilities. The Committee is further concerned about allegations of physical ill-treatment in detention facilities (arts. 7 and 10).

32. **The State party should strengthen its efforts to ensure that conditions in places of detention are in line with international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), especially by continuing its efforts to address overcrowding and ensuring the effective implementation of regulations relating to alternatives to the deprivation of liberty.**

33. The Committee is concerned about allegations of illegal detention of terrorist suspects in secret detention facilities and of ill-treatment and extraordinary renditions, including the case of Abd al-Rahim Hussayn Muhammad al-Nashiri (arts. 7, 9 and 10).

34. **The State party should reinforce and expedite investigations into alleged extraordinary renditions and secret detentions, including the case of Abd al-Rahim Hussayn Muhammad al-Nashiri.**

35. The Committee is concerned about amendments to the Asylum Law, in 2014 and 2015, and the Aliens Law, in 2015, extending the grounds for detention of asylum seekers.

It is also concerned about the age assessment procedure which allows the temporary placing of minor asylum seekers in centres for adults. (arts. 9 and 24)

**36. The State party should use alternatives to detention for asylum seekers and migrants and, in cases where the individual is detained, ensure that the detention is reasonable, necessary and proportionate in the light of the circumstances and reassessed overtime. The State party should ensure that children are not deprived of their liberty except as a measure of last resort and for the shortest period of time, taking into account their best interests.**

#### **Elimination of slavery and servitude**

37. While appreciating the State party's increased efforts to prosecute perpetrators of trafficking in persons, the Committee is concerned that the State party remains a source, transit and destination country for trafficking in persons. The Committee is also concerned about the lack of adequate government services provided to victims and the lack of specialized training for law enforcement officials, judges and prosecutors. The Committee is further concerned that children are increasingly victims of forced begging and sex trafficking (arts. 8 and 24).

**38. The State party should strengthen its efforts to prevent and eradicate trafficking in persons, including through training of law enforcement officials, judges and prosecutors. It should provide victims with adequate medical, social and legal assistance, provide reparation and allocate sufficient funds for support services for victims.**

#### **Right to fair trial and independence of the judiciary**

39. The Committee is concerned about reports of undue attacks on the independence of the judiciary by public officials and the media and the reported politicization of the public prosecutor's office. It is also concerned about reports of practical difficulties in obtaining effective legal assistance and representation during pretrial proceedings (art. 14).

**40. The State party should continue its efforts to ensure and protect the full independence and impartiality of the judiciary and guarantee that it can carry out its judicial functions without any form of pressure or interference. The State party should also take measures to protect the prosecution against any undue interference and ensure that lawyers are able to effectively represent detainees in pretrial proceedings.**

#### **Protection of minors and rights of the child**

41. The Committee is concerned about the significant number of children, including those from single parent households, placed in institutions, especially children from disadvantaged communities and children with disabilities. It is also concerned about the living conditions and state of health of institutionalized children and the inadequate monitoring system to prevent abuse and exploitation of children placed in childcare facilities. The Committee is further concerned about the institutionalization of children with disabilities under the age of 3 in childcare facilities. It is also concerned about reports of child labour, particularly in agriculture, construction and at home, child begging in the streets and sexual exploitation of children (art. 24).

**42. The State party should intensify its efforts to encourage the placement of children in alternative family-based settings and take measures to avoid the institutionalization of children from single parent households in the first place. The State party should also ensure adequate living conditions and health care in all children's institutions and regularly monitor the conditions and the treatment in these institutions so as to protect children from all forms of exploitation. The State party should further ensure that, in accordance with its laws, no children under the age of 3 are institutionalized in childcare facilities, including children with disabilities. It should strengthen measures aiming at eliminating the economic exploitation of children, such as child labour, begging and sexual exploitation, and sanction those responsible for such exploitation.**

**National and religious minorities**

43. The Committee is concerned about incidents of hate speech against religious and national minorities, allegations of unequal treatment of national minorities and obstacles to their exercise religious freedom, such as conducting burials in accordance with their faith and in some cases gaining access to burial (arts. 18 and 27).

44. **The State party should enforce the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence; take measures to promote tolerance and an environment inclusive of persons belonging to minorities, including with respect to their linguistic and cultural rights; and remove barriers to their exercise of religious freedom.**

**D. Dissemination and follow-up**

45. The State party should widely disseminate the Covenant and its two Optional Protocols, the fifth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official language of the State party.

46. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by 10 November 2019, information on the implementation of the recommendations made by the Committee in paragraphs 12 (equality and non-discrimination of Roma), 30 (ill-treatment in public care facilities) and 42 (protection of minors and rights of the child) above.

47. The Committee requests the State party to submit its next periodic report by 6 November 2023 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its sixth periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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