



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

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Consideration of reports submitted by States parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Romania

1. The Committee considered the sixteenth to nineteenth periodic reports of Romania, submitted in a single document (CERD/C/ROU/16-19), at its 2022nd and 2023rd meetings (CERD/C/SR.2022 and 2023), held on 9 and 10 August 2010. At its 2042nd meeting (CERD/C/SR.2042), held on 23 August 2010, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the periodic reports submitted as a single document by the State party and the supplementary information provided orally by the delegation. It appreciates that the State party sent a high-level delegation and welcomes the resumption of dialogue with the State party after a break of 11 years. The Committee welcomes the high quality of the document submitted by the State party, which was in keeping with the Committee's guidelines, and the delegation's frank and constructive replies to the questions and comments raised by the Committee members.

B. Positive aspects

3. The Committee notes with satisfaction that the amended Constitution of 2003 contains provisions on the prevention of discrimination.

4. The Committee welcomes the adoption of a number of laws and ordinances aimed at preventing or combating discrimination, including:

(a) Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination, which provides the overall legal framework in this area;

(b) Emergency Ordinance No. 31/2002, prohibiting organizations and symbols of a fascist, racist or xenophobic nature and the glorification of those found guilty of committing crimes against peace and humanity;

(c) Articles 317 and 247 of the Criminal Code, on incitement to discrimination and the abuse of authority on discriminatory grounds;

(d) Act No. 107/2006, amending Emergency Ordinance No. 31/2002, which broadens the definition of the Holocaust to include persons of Roma origin;

(e) Act No. 504/2002 on audio-visual media (as amended and supplemented by Act No. 402/2003), which prohibits the broadcasting of programmes containing any form of incitement to hatred on grounds of race, religion, nationality, gender or sexual orientation;

(f) Act No. 14/2003 on political parties, which regulates political representation and participation in public life on the basis of equality and non-discrimination among citizens;

(g) The new Labour Code, as adopted by Act No. 53/2003 and subsequently amended, which defines and bans direct and indirect discrimination.

5. The Committee notes that the State party has established various bodies and institutions to combat discrimination, such as the National Council for Combating Discrimination, the National Agency for Roma, the Ombudsman, the Committee for National Minorities, the National Audio-Visual Council and the Ministerial Department for Inter-ethnic Relations.

6. The Committee notes with satisfaction that the State party has taken a number of measures and implemented programmes and plans inter alia for the integration of persons belonging to minorities, for the upbringing and education of Roma children and for the promotion of the mother tongues of ethnic minorities, as well as for the prevention of discrimination against persons belonging to ethnic minorities, including through the National Strategy on Measures to Prevent and Combat Discrimination (2007–2013) and the National Strategy to Improve the Situation of Roma.

7. The Committee welcomes the information from the State party that Romania has already made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and that it has ratified the European Charter for Regional or Minority Languages, the Council of Europe's Framework Convention for the Protection of National Minorities and Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

C. Concerns and recommendations

8. The Committee takes note of the data supplied by the State party on the ethnic composition of the population, drawn from the 2002 census. However, the Committee is concerned that the conditions in which the census was carried out did not make it possible to collect comprehensive, precise and reliable data on the actual ethnic make-up of the population of Romania, including minorities and the Roma minority in particular.

The Committee recommends that the State party improve its data-collection methods for the next census, in 2011, so as to be able to provide, in its next report, comprehensive, precise and reliable data on the ethnic composition of the population, particularly the number of Roma, and also on other national minorities.

9. The Committee takes note of the various measures taken by the State party, including national strategies, plans and programmes, to prevent and combat racial

discrimination and protect the most vulnerable groups. The Committee regrets, however, that the State party has not provided sufficient information on the impact of such measures in practice.

The Committee recommends that the State party provide, in its next report, comprehensive information on the impact in practice of the numerous measures taken to prevent and combat racial discrimination and encourage the social integration of vulnerable groups. It also recommends that the State party keep it informed about the fate of the bill on national minorities currently under consideration in parliament.

10. The Committee is concerned that the temporary austerity measures taken by the State party in 2009 and 2010 to cope with the global economic and financial crisis may have a negative impact on the situation of those groups in society that are most vulnerable and most at-risk of racial discrimination.

In light of its general recommendation No. 33 (2009), the Committee recommends that the State party take appropriate measures, or strengthen existing measures, to ensure that the economic and financial crisis does not have harmful effects on the social situation of the most vulnerable groups, particularly refugees, immigrants and minorities, including the Roma, and that it does not lead to a rise in racial discrimination against these groups.

11. The Committee takes note of the information provided by the State party on the sphere of activity, mandate and functions of the National Council for Combating Discrimination, but observes that this institution is not yet fully in compliance with the Paris Principles (General Assembly resolution 48/134) (art. 2).

The Committee recommends that the State party take appropriate measures to ensure that the National Council for Combating Discrimination is fully in compliance with the Paris Principles (General Assembly resolution 48/134).

12. The Committee observes that the areas of competence of the various institutions and bodies combating discrimination, particularly the National Council for Combating Discrimination and the Ombudsman, may overlap, which might be detrimental to the effectiveness of one or other institution in the fight against discrimination (art. 2).

The Committee recommends that the State party specify the respective areas of competence of the various institutions and bodies combating discrimination in order to ensure the effectiveness of the system for preventing and combating discrimination, including in the processing of complaints, and that it take the necessary steps to ensure better coordination between such institutions and bodies.

13. The Committee notes that the State party's criminal legislation, particularly the Criminal Code, does not entirely cover the activities proscribed in article 4 of the Convention.

Recalling its general recommendations Nos. 1 (1972), 7 (1985) and 15 (1993), according to which article 4 is of a preventive and mandatory nature, the Committee recommends that the State party include in the Criminal Code, when it is next reformed, provisions that give full effect to article 4 of the Convention.

14. The Committee takes note of the numerous measures taken by the State party to improve the situation of the Roma, and also to prevent and combat racial discrimination against them. However, the Committee is concerned that the Roma continue to be the victims of racial stereotyping and racial discrimination in access to education and in the quality of education — including through segregation of Roma children — as well as in access to housing, care, health services, social services and employment. The Committee is

also concerned that the Roma are victims of discrimination in access to certain public places and services (art. 5).

Bearing in mind its general recommendation No. 27 (2000) on discrimination against Roma, the Committee encourages the State party to continue its efforts and take the necessary measures to prevent and combat racial discrimination against Roma. In this connection, the Committee recommends that the State party:

- (a) Enforce existing legislation and other measures banning any discrimination against Roma;**
- (b) Ensure that Roma children have access to education, and also that the ministerial order of July 2007 banning segregation is disseminated among teachers and Roma parents, and publicize and implement that order;**
- (c) Facilitate access by Roma to housing, including by avoiding unlawful expropriation and forced evictions without offering alternative accommodation;**
- (d) Guarantee access by Roma to health care and services, and also to social services, and continue to support Roma health mediators;**
- (e) Develop training and learning opportunities for Roma, with a view to facilitating their entry to the labour market;**
- (f) Combat discrimination against Roma in access to public places and services, by prosecuting and punishing anyone engaging in discriminatory behaviour.**

15. The Committee notes with concern the excessive use of force, ill-treatment and abuse of authority by police and law enforcement officers against persons belonging to minority groups, and Roma in particular. It is also concerned about the use of racial profiling by police officers and judicial officials (art. 5).

Bearing in mind its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee encourages the State party to:

- (a) Continue to take measures and to enforce existing measures, particularly Act No. 218/2002 and Act No. 360/2002, with a view to combating the excessive use of force, ill-treatment and abuse of authority by the police against persons belonging to minority groups, including Roma;**
- (b) Facilitate access to remedies by persons belonging to minorities in respect of such behaviour;**
- (c) Guarantee the effective and objective processing of complaints, under the supervision of the Inspectorate General of the Police;**
- (d) Ensure that such behaviour is indeed prosecuted and punished by the judicial authorities;**
- (e) Continue, meanwhile, to recruit Roma into the police force.**

The Committee also recommends that the State party eliminate the use of racial profiling by the police and justice system and that it provide comprehensive data, in its next report, on complaints, prosecutions and punishments for such behaviour.

16. The Committee is concerned at reports of the spread of racial stereotyping and hate speech aimed at persons belonging to minorities, particularly Roma, by certain publications, media outlets, political parties and certain politicians (arts. 4, 5 and 6).

The Committee recommends that the State party take effective measures to punish the publications, media outlets, political parties and politicians guilty of such behaviour. It

also recommends that the State party take measures to promote tolerance among ethnic groups.

17. The Committee is concerned at the persistence of racism in sport, particularly football, as manifested in hate speech and racist incidents targeting certain minorities, including the Roma (arts. 4 and 5).

The Committee recommends that the State party continue its efforts to combat racism in sport, particularly football. It also recommends that the State party use sport to promote a culture of tolerance and multicultural and ethnic diversity.

18. The Committee notes that various remedies are available for acts of racial discrimination, notably with the National Council for Combating Discrimination, the Ombudsman and the courts of the State party. The Committee is nevertheless concerned that the State party has not provided sufficient information on complaints, prosecutions, convictions and sentences handed down by the courts (art. 6).

With reference to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of any complaints and legal proceedings brought by victims of racial discrimination may indicate the lack of any specific legislation in the matter, an ignorance of the remedies available, fear of social disapproval or a lack of will on the part of the authorities responsible for bringing prosecutions. The Committee recommends that the State party disseminate its legislation on racial discrimination and inform the public — in particular minorities such as the Roma — of all available legal remedies. It also recommends that the State party provide, in its next report, complete information on complaints, proceedings, convictions and sentences for acts of racial discrimination.

19. The Committee notes with concern that persons belonging to national minorities, particularly the Roma, are not always granted the opportunity to communicate in their own language at all stages of legal proceedings, owing to a lack of interpreters, which undermines their right to the proper administration of justice (arts. 5 and 6).

The Committee recommends that the State party enforce Act No. 304/2004 on the organization of the judiciary, which provides that persons belonging to national minorities have the right to express themselves in their mother tongue before the courts. The Committee recommends that the State party guarantee the full enjoyment of this right, notably by undertaking to train interpreters, in order to ensure that persons facing trial who belong to a national minority, particularly the Roma, benefit from the proper administration of justice.

20. The Committee is concerned that training in human rights and in interracial or inter-ethnic harmony remains insufficient and that a very negative perception of minorities, particularly the Roma, persists among the general public in the State party (art. 7).

The Committee recommends that the State party intensify its efforts to impart human rights training and to foster an awareness of tolerance, interracial or inter-ethnic understanding and intercultural relations among law enforcement officials, including police, gendarmerie, judicial and prison administration personnel, and among lawyers and also teachers. It further recommends that the State party continue its public education and awareness-raising initiatives in the areas of multicultural diversity, harmony and tolerance of minorities, particularly the Roma.

21. Bearing in mind the indivisible nature of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties to which it is not already a party, particularly those whose provisions have a direct bearing on

the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

22. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party take into account the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

23. The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report.

24. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention (see annex to CERD/SP/45) and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee recalls paragraph 14 of General Assembly resolution 61/148, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

25. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the concluding observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

26. Noting that the State party submitted its core document in 1996, the Committee encourages it to submit an updated version of 60 to 80 pages, in accordance with the harmonized guidelines on reporting under the international human rights treaties, namely those relating to the common core document, as adopted at the fifth inter-committee meeting of treaty bodies, held in June 2006 (HRI/GEN/2/Rev.4).

27. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 14, 15, 16 and 17 above.

28. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 8, 10, 19 and 20, and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

29. The Committee recommends that the State party submit its twentieth to twenty-second periodic reports in a single document of no more than 40 pages by 15 October 2013, taking into account the guidelines for the preparation of reports to the Committee on the Elimination of Racial Discrimination adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address in this report all points raised in the present concluding observations.