



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2720th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 30 April 2019, at 10 a.m.

Chair: Mr. Amir

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined eighteenth to twenty-fifth periodic reports of Hungary (continued)
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1. *At the invitation of the Chair, the delegation of Hungary took places at the Committee table.*
2. **Mr. Bóka** (Hungary) said that information would be provided in writing in response to questions about the human and financial resources allocated to the Office of the Commissioner for Fundamental Rights and the Equal Treatment Authority, individual complaints related to equal treatment and court practice with regard to hate crimes, including examples of particular court cases. Data on the ethnic composition of the prison population was not available because it was illegal to compel people to declare their national or ethnic identity other than to receive a related benefit or exercise a related right. Each person was free to decide whether to disclose his or her identity as a member of a national minority. He was thus unable to comment on the nationalities of members of his delegation.
3. The Deputy Commissioner responsible for protecting the interests of future generations was tasked with promoting sustainable development under the Fundamental Law of Hungary, according to which the country's natural resources, such as agricultural land, forests, water resources, biological diversity and cultural heritage, were the common heritage of the nation. The obligations of present generations towards future generations with regard to their common heritage were set out in a decision by the Constitutional Court.
4. **Mr. Tircsi** (Hungary) said that under the Fundamental Law the indigenous national minorities of Hungary were participants in the building and maintenance of the State and were protected by the State. Since 2011, domestic legislation had used the term "nationality", rather than "ethnic minority", in order to indicate that the policy on nationalities was integrated and standardized and to avoid any discrimination based on the differing population sizes of nationality groups. The change in terminology had been made in agreement with the groups concerned.
5. While no person was forced to disclose membership of a nationality, such membership had to be disclosed in certain situations, such as to enrol a child in a school offering education specific to a given nationality. The census posed three questions relating to national minorities, covering the identification with a national group and mother tongue of respondents and to the language used by them with family and friends. The fact that there was no requirement to respond to those questions had an impact on the reliability of the data thus collected.
6. He himself was a member of the German national minority. He was not the only member of a national minority in the delegation. Only genuine communities could be recognized as national minorities, which was why the establishment of nationality self-governments was linked to census data and the activities of the nationalities themselves. There were almost as many nationality self-governments as local governments. The self-government system provided for advocacy for the special interests of national minorities through distinct bodies at the local, regional and national levels that were considered primary partners of the Government. No decision affecting national minorities, particularly in key areas such as education, language or culture, could be made without input from the self-governments. Self-governments were elected every five years and the candidates had to be declared on a list of members of national minorities. While inclusion on, or removal from, the list was voluntary, the system was protected by the fact that the respective electorates would not vote for a person who did not belong to their national minority.
7. The Fundamental Law provided for the right of national minorities to participate in the work of the national parliament, and their representation there was ensured through a quota. Since the 2018 elections, the German national minority had been represented in parliament, while nationalities that had not reached the level required to benefit from the

quota were represented by advocates, who sat together with parliamentarians on a parliamentary committee for national minorities comprised of 13 members. That committee, established in 2014, enjoyed the same powers as other parliamentary committees, and thus could propose motions and initiate legislation. All legislative proposals put forward by the committee had been adopted by the parliament unopposed.

8. More than 500 non-governmental organizations (NGOs) were active in areas related to national minorities and received support from the Government to operate and carry out their programmes. The views of NGOs were taken into account by the Government when considering amendments to legislation.

9. The overall number of persons belonging to the Rusyn/Ruthenian national minority had risen to more than 3,000 over the previous 10 years, although the number declaring Rusyn as their mother tongue had fallen to below 1,000. The fall in the number of mother tongue speakers was likely due to the passing of the older generation and the focus of the younger generation on working in Western Europe. The national Rusyn self-government had published Rusyn dictionaries and textbooks, and support for Rusyn schools had been prioritized. All efforts were being made to help maintain the Rusyn language, including the inauguration the previous week of a Rusyn community house in Debrecen.

10. **Mr. Bóka** (Hungary) said that the Jewish community in Hungary was not considered a national minority because only a small part of that community identified as Jews living in Hungary rather than as Hungarians of Jewish faith or culture. Speaking from personal experience, he said that his grandfather, who had lost almost all family members in the Holocaust, had identified as Hungarian. He, like many Hungarians, cherished his combined Jewish and Christian heritage.

11. **Mr. Fedor** (Hungary) said that the experience of observant Jews was much the same as that of Hungarians belonging to other faiths. The three recognized Jewish religious groups in Hungary operated freely and enjoyed the protection of the law. The majority of Hungarian Jews had never requested separate recognition of their group, and Jews were considered an integral and organic part of the Hungarian nation.

12. **Mr. Bóka** (Hungary) said that it was imperative that the judiciary should be independent, impartial and competent. The establishment of a separate, centralized system of administrative courts had been debated extensively and considered by the European Commission for Democracy through Law (the Venice Commission) at the Government's request. The proceedings of the Venice Commission were publicly available, and information on the objectives of the new system had been widely disseminated. Administrative court systems operated in a number of European countries and had existed in his country in the past, but had been dismantled in 1949. Discussion of the system's revival dated from the transition to democracy in 1989. Establishing such a system had been a political priority since 2010. The relevant parts of the Code of Administrative Court Procedure had been adopted in 2017, and preparations were currently under way for the entry into operation of administrative courts on 1 January 2020.

13. The Venice Commission had determined that there could be no constitutional objection to the establishment and maintenance of a separate system of administrative courts. It had also stated that the proposed court system – with meaningful prerogatives accorded to the Minister of Justice – was acceptable if adequate checks and balances were in place, including checks on arbitrary decisions by the Minister of Justice. The adequacy of checks and balances could be discussed. However, any consideration of a fully autonomous administration of the court system would stray into the area of the political choice made by the Hungarian Government, which had opted to introduce a centrally administered system for the new administrative courts.

14. The Venice Commission's recommendations had been taken into account, and the legislation on administrative courts had been amended accordingly. Two further issues had been identified by the Commission and subsequently addressed. Specifically, additional guarantees would apply during the interim period of transition to the new court system, and the system's future judges had been informed of that fact; and legal remedies would be provided against decisions of the president of the Supreme Administrative Court. The

independence of judges had been given paramount consideration during the work to establish the administrative court system.

15. His Government had been the first to raise the issue of Roma inclusion at the European level. The European Union Framework for National Roma Integration Strategies had been adopted in 2011, during the Hungarian presidency of the European Union, and his Government had been the first to submit its National Inclusion Strategy under that framework. Roma inclusion was a long-term project and the results of activities under the framework were reported and made public annually.

16. **Mr. Sörös** (Hungary) said that there could be no doubt that segregation was prohibited under the Equal Treatment Act. Parents could freely choose which schools their children attended. Regulations only provided that catchment areas must not put socially-excluded children at a disadvantage. The national curriculum stipulated that children should learn about all Hungarian nationalities, including the Roma, in addition to learning about the persecution and genocide of the Jewish and Roma minorities.

17. The Roma population mainly resided in approximately four counties in eastern and north-eastern Hungary and in two counties in the south. Social exclusion and poverty were high in those areas. Statistics on the Roma population diverged due to the use of different methodologies in the compilation of census data. While the official census collected data every 10 years on the basis of self-declaration of nationality, other surveys collected data on the basis of estimates, or they combined different data-collection methods. In 2001, the official census had recorded a population of 190,000 members of the Roma community; others had recorded figures using other methods ranging from 613,000 to 813,000. The 2011 official census had produced a different figure, as respondents had been able to declare more than one nationality. Roma communities were consulted in policymaking. A Roma working group was included in the Government's human rights working group, and a Roma coordination council, which included Roma NGOs, worked on specific issues such as housing and education.

18. The National Inclusion Strategy addressed the situation of persons living in extreme poverty, poor children and members of the Roma community. In order to reduce social exclusion, poverty and school dropout rates in line with the targets under the Europe 2020 strategy, the Government had implemented measures in a number of areas, including child welfare, employment, education and health care, and in changing the attitudes of the public. Some of those measures specifically targeted regions of Hungary that were most affected by social exclusion and other issues affecting the Roma.

19. The Government reviewed the National Inclusion Strategy annually in order to evaluate its successes and weaknesses and to consider adopting further measures. Its implementation was considered a priority, as it had built on the experiences and objectives of previous strategies to combat social exclusion, including a programme to improve the lives of socially-excluded children, including Roma children. The fact that the National Inclusion Strategy covered a number of areas, including education, health care and housing, was key to combating Roma exclusion. The Strategy's objectives and annual implementation reports were available to the public. The Government collected information both from persons who identified as Roma and from the non-Roma population and compared it in order to determine the numbers of persons living in or at risk of poverty and social exclusion in each group. Among the Roma, one of the indicators of social exclusion had declined by a quarter between 2013 and 2017. Many of the Strategy's initiatives focused on socially-excluded or Roma children and young adults and were aimed at decreasing school dropout rates and increasing the number of qualified graduates. Social exclusion was defined not on the basis of nationality, but based on other indicators, including family income and living conditions.

20. There were several examples of initiatives under the National Inclusion Strategy. The Sure Start Children's Centres Network aimed to ensure that socially-excluded infants had a good start in life. Disadvantaged children, including Roma children, were served by some 200 afterschool workshops, the aim being to ensure that they would have a smooth transition from elementary to secondary education. A programme gave disadvantaged young people the opportunity to enrol in high-achieving schools with a view to preparing

them for higher education. In addition, 1,800 Roma girls were given mentoring from the elementary level through to the end of secondary school. Legislation had also been amended with a view to preventing children from dropping out of school. Educational institutions had to identify risks leading to dropouts to better provide support for children in danger of leaving school early.

21. **Ms. Soós** (Hungary) said that, by law, health-care services were accessible to all. Patients had rights, including the possibility of lodging complaints, all of which were investigated. While the Government did not collect data on the ethnicity or nationality of patients, it acknowledged that some regions had less access to health care than others. The Government was implementing a strategy to improve access to health care through the year 2020, and it had thus set up medical practices throughout the country, providing basic health-care services and access to other services, including physiotherapy. Most such practices also provided mental health support. Health practitioners visited families, providing advice and conducting screening. In an effort to bridge cultural and communication gaps between patients and health-care practitioners, the Government had supported the introduction of specific subjects such as sociology in the training of medical professionals. Measures had also been implemented to reduce cardiovascular disease and cancer; mammographies were free of charge for women between 45 and 65 years of age and human papillomavirus vaccinations were provided for free to all girls over the age of 12.

22. **Mr. Bóka** (Hungary) said that the delegation could provide the statistics cited during the meeting in writing. With respect to the issue of asylum, Hungary was unquestionably fulfilling its obligations under the Convention relating to the Status of Refugees. However, the Government distinguished between asylum and immigration and between asylum seekers and migrants. While it understood that the objective of an international asylum system was to protect persons who had legitimate fear of persecution, preferably as close to their homes as possible, it was an abuse of that system for it to be used to build and maintain global migration corridors. Clearly, there were reasons behind global migration. No person would travel thousands of miles from home without a pressing need. However, in most cases, that pressing need was not a legitimate fear of persecution. In such cases, the policy of the Hungarian Government was to avoid importing the problem and to provide help where it was needed. For instance, Hungary participated in United Nations and European Union missions worldwide, including in Kosovo, Afghanistan and Mali; it provided scholarships to students from developing countries; and it delivered humanitarian and development assistance to regions in crisis and need, for example in Iraq, where it had financed reconstruction work enabling 1,000 families to return to their homes. The Government's approach might not be universally accepted, but the main question was whether it was implementing its asylum and immigration policy in compliance with its international obligations.

23. **Mr. Tothi** (Hungary) said that there was no doubt that Hungary provided access to asylum procedures for foreigners in legitimate need. All persons who indicated that they intended to lodge an asylum application were given the opportunity to submit one, without discrimination, and their applications were properly assessed. The migration policy of Hungary, which prioritized the preservation of the Schengen system, provided for the strong protection of the country's external borders and those of the European Union. All European Union member States, including Hungary, should therefore fully apply the existing Schengen rules. The Hungarian Government believed that a coherent and comprehensive migration policy should aim to stem illegal migration, tackle the root causes of migration and strengthen cooperation with third countries. All possible measures should be implemented to keep the influx of illegal migrants under control and to prevent the entry into the European Union of persons without appropriate identification. Effective return and readmission programmes and policies required international and internal support in order to be successful.

24. In 2015, almost 400,000 persons had crossed the country illegally; 177,000 asylum applications had been lodged by persons from some 108 countries. The number of asylum applications had doubled compared with the previous year, and had been 90 times higher than in 2013, with severe consequences for the asylum system. Since the 2015 migration

crisis, Hungary had strengthened its external borders and introduced new asylum regulations so that applications could now be made only in transit zones on the border with Serbia. The police arrested and returned persons illegally crossing the country, in cooperation with neighbouring States and members of the European Union. Through those measures, the Government aimed to ensure that no person entered the territory of the European Union illegally. In respect of non-refoulement, when returning persons, the police fulfilled the obligations under the European Union Schengen Borders Code, the Return Directive and national regulations. In accordance with Hungarian law, during such procedures, foreign nationals were informed what the police were doing and why, in their own language if necessary, and were apprised of their right to file complaints and to submit asylum applications.

25. **Mr. Nagy** (Hungary) said that the Government had set up transit zones on the border in 2017 and had equipped them with reception facilities. Migrants were not detained in the zones and had the right to leave at any time. However, it was not possible to freely enter Hungary from the zones. That did not amount to a restriction on freedom of movement, as only individuals who did not have Hungarian residence permits were accommodated there. The living conditions in the zones complied with Hungarian legislation and international standards. The authorities did not discriminate against persons housed there, and a range of services was provided, including education facilities, community activities and medical care. Social workers and medical personnel were present at all times, and any medical care provided under the Hungarian medical system was available to persons housed in the zones. Where possible, paediatric, prenatal and psychological services and medication were provided as well. The Government had responded to complaints from NGOs by installing air conditioning, fans and wireless Internet service throughout the zones and providing playgrounds and sports equipment. Translation services were also available in the main languages spoken by the migrants. The Government was endeavouring to improve conditions in the transit zones. The Hungarian Red Cross, the Reformed Church in Hungary and Hungarian Baptist Aid provided additional services.

26. The Government fully respected the principle of non-refoulement, and each asylum application was examined taking into account the applicant's individual circumstances. Applicants were entitled to legal assistance and were able to use the language of their choice throughout the process. All applications were evaluated on the basis of the legal provisions in force at the time of the application. Procedural time limits, which were shorter than in many other European countries, were always respected. The modifications to national legislation made in June 2018 did not have the effect of hampering a thorough examination of every asylum application. In 2018, 55 per cent of applications resulted in the recognition of the right to asylum.

27. Beneficiaries of international protection were entitled to accommodation, food, hygiene products, clothing and social assistance for a maximum period of 30 days following the recognition of their right to such protection. Refugees enjoyed the same social, employment and educational rights as Hungarian citizens and were therefore entitled to the same level of social assistance. Refugees did not need a work permit to engage in paid employment and received vocational training under conditions similar to those applicable to Hungarian citizens. Social workers provided them with services through community programmes and with integration advice. However, the integration support system was often misused. Many refugees lacked commitment to integrate into Hungarian society and instead chose to leave the country.

28. **Ms. Ko** (Country Rapporteur) said that she would like to hear more about how the State party dealt with hate crimes. She would also like the delegation to comment on the involvement of NGOs in the areas covered by the Convention. In its 2002 concluding observations, the Committee had expressed concern about the possible discriminatory effects of Act LXII of 2001 on "Hungarians living in neighbouring countries". She would like the delegation to comment on that legislation and to indicate whether it was still in force.

29. **Mr. Avtonomov** said that he would like to know to what extent the Government was taking part in the Decade for People of African Descent. He asked whether the

Government planned to ratify the amendment to article 8 of the Convention, which would not have any implications for States parties but would significantly reduce the burden on the Committee's secretariat. He would be interested to know whether the Government planned to ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189).

30. **Mr. Yeung Sik Yuen** said that he was impressed by the delegation's commitment to the independence of the judiciary. Given that the Minister of Justice would be responsible for appointing judges to the administrative court, the delegation should indicate how the Government planned to follow the recommendations of the Venice Commission regarding effective checks and balances. It was his understanding that individuals who had never held the office of judge could be appointed to the administrative court. Given the importance of legal training and experience of the legal system in order to ensure that the judiciary would remain independent, he would like to hear the delegation's views. In light of the fact that judges would be appointed to the court for a term of nine years, the delegation should indicate whether their appointments would be renewable and consistent with the principle of security of tenure. He would be interested to hear more regarding how the Government was addressing the issue of the amount of power conferred upon the president of the administrative court.

31. **Ms. Dah** said that she would appreciate information on the institutional representation of minority women, particularly Roma women. She would like to know whether minority women were represented in the parliament, the Government, the justice system, the police force and the military. While she welcomed the annual evaluations of educational performance in various school districts and the Government's efforts to provide quality education in areas where minorities lived, she had concerns regarding social diversity in primary schools. She had received information according to which it was possible for parents to prevent their children from coming into contact with ethnic minorities. Could wealthy parents prevent their children from being educated in the same class as Roma children? The delegation should indicate whether any sanctions were in place to punish parents who thus attempted to segregate their children. Work needed to be undertaken to continue the progress made in the kindergarten system and to raise awareness among all parents. Future awareness-raising measures taken by the national human rights institution should focus on ensuring the unity of Hungarian society.

32. **Mr. Kut** said that he would like to know whether a mechanism was in place to prevent politically motivated appointments to the administrative courts. How did the legal framework address racist discourse pronounced during election campaigns? He would be interested to see any case law demonstrating that such laws were actively implemented to counter racism and xenophobia. The migration crisis was not over, and migrants were often not safe even once they had left their countries of origin. A collective solution was needed. Closing borders could not address the issues related to that crisis.

33. **Mr. Bóka** (Hungary) said that the Criminal Code that had entered into force in 2013 contained new provisions conducive to stricter regulation of hate crimes. In addition, a law adopted in 2016 had amended the criminal offence of incitement against a community by explicitly including both incitement to violence and incitement to hatred. The relevant provisions were now applicable not only to groups, but also to individual community members who were targeted by hate crimes. The law not only protected individuals against verbal attacks, it also went so far as to extend protection to them before an actual physical attack took place. For example, the display of conspicuously antisocial conduct was punishable if it was capable of causing alarm among members of a targeted group.

34. The new Criminal Code contained a provision rendering electronic data that constituted online hate speech permanently inaccessible through the removal of illegal content. A court could temporarily prohibit access to online data during criminal proceedings as an interim measure. As such measures could be circumvented by transboundary technical means, international cooperation had been sought to devise a more successful approach. The new Code of Criminal Procedure also made provision for the special treatment of victims and witnesses of hate crimes.

35. The Government had decided in 2019 to endorse the definition of anti-Semitism adopted by the International Holocaust Remembrance Alliance and had entrusted several cabinet members with the task of examining its possible application. Reports on the subject would be submitted to the Government in due course. With regard to the implementation of hate crime legislation, information on the case law and statistical data were available and would be submitted in writing to the Committee.

36. Given its historical and cultural background, Hungary was not in a position to play a leading role in the International Decade for People of African Descent. However, it supported the action being taken by the European Union. He assured the Committee that Hungary would look into the possibility of ratifying the amendment to article 8 of the Convention. Domestic employment was rare in Hungary, and very few of those currently employed as domestic workers were from minorities. The legislation on domestic work was fully in line with international standards.

37. The Government had sought the advice of the Venice Commission even before the parliament had adopted the law establishing the administrative courts. A great deal of preparatory work was required before the courts could begin to operate on 1 January 2020, but the Commission's views would certainly be taken into account, as evidenced by the amendments that had already been adopted. Judges in the new administrative courts would have the same legal status as other judges. The nine-year term would be applicable only to the president of the Supreme Administrative Court. Applications for appointment would be assessed on the basis of a predefined set of criteria. Eighty per cent of an applicant's score would be based on objective criteria, and an appeal could be filed against any miscalculation. The remaining 20 per cent would be based on subjective criteria established by the judicial council, which would be composed mostly of judges. The Minister of Justice could alter the rank of candidates on the resulting list on the basis of predefined criteria after publicly hearing all candidates and producing a written justification for the decision. The list would then be referred to the President of the Republic.

38. **Mr. Sörös** (Hungary) said that the National Inclusion Strategy specified measures to be implemented under the Government's programmes. Combating discriminatory phenomena was a key area. Support was provided for the active participation of the Roma community in self-government and for the participation by Roma women in public life.

39. Most children who visited Sure Start Children's Homes, primarily with their mothers, were Roma. Although enrolment in kindergartens was quite high, specific measures were required to promote the attendance of Roma children and children in disadvantaged situations. A project targeting 500 kindergartens had therefore been launched with a view to providing the requisite services. Staff who spoke the mother tongue of Roma children were employed in the kindergartens.

40. Another key programme provided for the training and employment of 1,000 Roma women. Job placement assistance was provided during and after the training courses, for instance in care-related services, nursing and social work. A conference funded by the Ministry of Human Resources and the Ministry of the Interior had been held in April 2019 to mark International Roma Day. One of the main topics had been "Roma women, Roma children and Roma families". The speakers had included Roma women university lecturers and participants in local projects.

41. **Mr. Tircsi** (Hungary) said that the Government had launched a three-year scholarship programme for teachers in the system providing nationality-specific education. Those employed in kindergartens run by local governments received an additional three-year scholarship. There were plans to provide similar assistance to students who intended to work in nationality-specific educational institutions. The supplementary payments received by teachers who provided instruction in nationality languages had been increased from 10 to 30 per cent in the current academic year.

42. **Mr. Murillo Martínez** said that he would appreciate further information on awareness-raising campaigns for the general public, especially young people, on the impact of the Holocaust.

43. **Mr. Bossuyt** said that he had been informed that judges were appointed or elected by the parliament rather than by their peers and that measures had been adopted that could undermine the independence of the Constitutional Court. The measures allegedly included limits on judges' tenure, an increase in the number of judges and limits on the Court's jurisdiction. He asked what purpose such measures served.

44. **Mr. Diaby** said that training courses for police officers on how to address hate crimes were apparently held just once year and that some police officers were reportedly appointed without attending any such courses. Lack of training might account for the rather low number of judicial proceedings concerning hate crimes. He wished to know whether the State party would consider incorporating a protocol to deal with hate crimes in the curriculum of police officers, judges, prosecutors and other persons involved in the judicial system. The Committee would also appreciate information on the number of stateless persons or persons at risk of statelessness in the State party.

45. **Ms. Mohamed** said that she would welcome additional information regarding the size, composition and organization of the Constitutional Court.

46. **Mr. Bóka** (Hungary) said that vigorous action had been taken to develop educational material and programmes on the Holocaust and that an information note on related activities would be submitted to the Committee. With regard to the composition, functions and independence of the Constitutional Court, a satisfactory dialogue had been conducted with the Venice Commission during the reform of the constitutional framework. The delegation would send the Committee an English translation of the relevant constitutional provisions. He encouraged the Committee to consult the opinion of the Venice Commission on the functions of the Court.

47. **Mr. Tothi** (Hungary) said that major progress had been achieved in reducing the frequency of hate crimes. The national police had developed instructions, both for rank and file and senior police officers, on how best to address hate crimes. It had also produced a list of indicators for identifying such crimes during investigations, with the assistance of partners from the United States, a Hungarian NGO, Norway Grants and the Hungarian Helsinki Committee. A European online training project on hate crime had also been implemented from 2016 to 2018. In addition, workshops for public prosecutors had been held three times a year since 2010.

48. **Mr. Bóka** (Hungary) reiterated his pledge to provide additional written information and statistical data in due course.

The meeting rose at 12.55 p.m.