



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Fifty-third session

#### Summary record of the 58th meeting

Held at the Palais Wilson, Geneva, on Thursday, 20 November 2014, at 3 p.m.

*Chairperson:* Mr. Kedzia

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*The meeting was called to order at 3:05 p.m.*

**Consideration of reports (continued)**

**(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)**

*Combined third to fifth periodic reports of Romania (E/C.12/ROU/3-5; E/C.12/ROU/Q/3-5 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Romania took places at the Committee table.*

2. **Ms. Ciobanu** (Romania) said that her country had ratified most of the European and international human rights instruments, which were all directly applicable in national law. Non-discrimination, equal rights for men and women, freedom of association, the right to form and join trade unions, the right to strike, the right to education, freedom of worship and parliamentary representation of ethnic minorities were guaranteed by the Constitution and implemented through specific texts. For example, Government Ordinance No. 137/2000 defined direct and indirect discrimination and established the National Council for Combating Discrimination. Under the Criminal Code and the Civil Code, revised versions of which had entered into force in 2014, any citizen whose rights had been violated could initiate proceedings before competent courts. Similarly, the right to strike was protected by the Labour Code and by the Social Dialogue Act.

3. The Department for Inter-ethnic Relations protected the rights of ethnic minorities and promoted cultural diversity. The Roma community, which had historically endured marginalization, discrimination and poverty, received special attention. Romania had adopted various national strategies to improve the situation of the Roma and was participating in the Decade of Roma Inclusion 2005–2015. Her country had implemented various measures to mitigate the effects of the economic crisis and maintain its various forms of social protection. In 2013, 7.1 per cent of the workforce (6.3 per cent of women and 7.7 per cent of men) had been unemployed.

4. **Mr. Schrijver** (Country Rapporteur), noting that the previous periodic report of Romania had been submitted some twenty years ago, asked why the State party had taken so long to submit its periodic reports. He enquired to what extent the economic and financial crisis had had an impact on the enjoyment of economic, social and cultural rights, in particular by vulnerable and marginalized groups. Expressing surprise that the State party had three national human rights institutions, he asked how they structured their work and whether they had the capacity to do it. He questioned the effectiveness of the anti-corruption strategy and invited the delegation to provide statistics on legal proceedings initiated and punishments handed down. He asked why the State party did not take greater advantage of the significant funds received from the European Social Fund and the European Regional Development Fund, including for the implementation of economic, social and cultural rights. He invited the delegation to state what measures were taken to ensure the full enjoyment of the right to freedom of association.

*Articles 1 to 5 of the Covenant*

5. **Ms. Bras Gomes** asked whether the State party planned to reduce the number of its national human rights institutions, which could not fully carry out their mandates without sufficient human and financial resources, and to retain only one, which would conform to the Paris Principles and be truly effective. She asked the delegation to explain why, despite the many measures adopted, intolerance regarding the Roma continued to grow.

6. **Mr. Atangana** invited the delegation to give examples of cases in which the Covenant had been directly invoked and to provide clarification of article 20 of the Constitution, which appeared to limit the precedence of international instruments over national law. He noted that judges and magistrates were reportedly subjected to pressure, which could endanger the independence of the judiciary, and requested clarifications. Referring to anti-corruption efforts, he asked whether any senior civil servants or high-ranking members of the Government had been prosecuted for that crime.

7. **Mr. Dasgupta** asked for details of the share of gross national income (GNI) that the State party devoted to official development assistance (ODA), and whether the State party believed that in the long term it could achieve the internationally recommended ODA/GNI ratio of 0.7 per cent. He enquired about the status of the bill to harmonize the pensionable age for men and women.

8. **Mr. Mancisidor** asked whether the State party intended to ratify the Optional Protocol to the Covenant. He asked the delegation to provide details of the programmes in place to combat homophobia and to include examples of convictions for homophobic acts of violence. He expressed surprise at the fact that, while Romania had the highest proportion of female postgraduate students in the European Union, it had the lowest proportion of women holding political office and invited the delegation to explain that apparent contradiction.

9. **Ms. Shin** asked what institution had replaced the National Agency for Equal Opportunities between Women and Men, and whether the National Strategy for Equal Opportunities between Women and Men had been effective.

10. **Mr. Sadi** requested more information about the content and implementation of projects financed by the European Social Fund for the empowerment of minority women.

*Articles 6 to 9 of the Covenant*

11. **Mr. Ribeiro Leão** asked what was being done to reduce gaps between men's and women's wages. He asked the delegation to provide updated information on wage disparities, disaggregated by industry, as the figures in the periodic report stopped at 2007. He asked how the State party addressed the problem of high unemployment among marginalized people, especially Roma.

12. **Ms. Bras Gomes** asked what impact the national youth employment plan had had. She asked whether the National Agency for Employment was functioning properly and whether any particular measures had been taken to foster the employment of Roma women. Noting that the minimum wage had been increased by 100 lei per year, she asked whether the new amount ensured beneficiaries a decent standard of living. She enquired about the effects of austerity measures on family allowances.

13. **Mr. Martynov** asked why measures to combat youth unemployment had not been effective. He asked whether, after ratifying the Convention on the Rights of the Child in 2011, Romania had adopted a legal framework to ensure its implementation, and whether disability had been added to the list of grounds for discrimination prohibited by law. He requested additional information about the proportion of people with disabilities among the total population, the number of persons with disabilities who were employed, and any measures taken to facilitate access by such persons to employment in the public and private sectors. He asked whether the austerity measures were considered temporary and, if so, when the Government planned to lift them.

14. **Mr. Schrijver** asked whether the State party was considering amending the law on asylum to enable those needing international protection to enter the labour market.

*The meeting was suspended at 4.15 p.m. and resumed at 4.40 p.m.*

15. **Ms. Ciobanu** (Romania) said that the backlog of periodic reports was linked to a lack of resources. In connection with her country's accession to the European Union, significant resources had been devoted to bringing national legislation and institutions into line with accession requirements. Romania was considering the possibility of ratifying the Optional Protocol to the Covenant. The low number of women in politics could be attributed to women's lack of interest in that activity.

16. **Mr. Rotundu** (Romania) said that after the return of democracy Romania had restored the principle of separation of powers. The Supreme Council of the Judiciary, established in 1909, was the guarantor of the judiciary's independence, in accordance with article 133 of the Constitution. The Council, which had 19 members, made proposals for the appointment of judges and prosecutors by the President. Judges who believed that their independence had been undermined could file a complaint with the Council, which issued an annual report on the situation of justice in the country that was submitted to parliament and published in the *Official Gazette*. It had its own budget, determined after consultation with the Ministry of Public Finances, and in turn it advised on proposed budgets for the judiciary and prosecutors.

17. Romania had adopted a national anti-corruption strategy, which was reviewed annually in consultation with the European Commission. The National Anti-Corruption Commission, a dedicated entity in the public prosecutor's office, dealt with grand corruption (involving damages of more than 200,000 euros) and corrupt acts by members of parliament, Government officials, military officers, mayors and members of municipal councils, judges, and directors of public enterprises. Between 1 January and 1 November 2014 the Commission had initiated criminal proceedings against 834 persons, and the equivalent of 549 million euros in assets had been frozen.

18. There was no doubt that the Romanian courts applied the European Convention on Human Rights more often than the international human rights instruments. Article 20 of the Constitution, which stated that where national laws were in conflict with international standards the latter should prevail unless the Constitution or national legislation contained more favourable provisions, had been thus worded because national discrimination legislation had at the time been broader in scope than the corresponding European and international laws. In 1994 the Constitutional Court, ruling on a case involving freedom of association, had ruled that national legislation applied in the case because it contained the more favourable set of provisions. However, the National Council for Combating Discrimination regularly referred to the provisions of the Covenant and to the Committee's general comments.

19. Romania had three national human rights institutions, an arrangement that might admittedly merit review in order to avoid duplication. They had been created at different times in the country's history. The National Human Rights Institute had been founded in 1990, in the months after the fall of the dictatorship, as a result of direct cooperation between the country's leadership of the time and the former Commission on Human Rights, for the purpose of disseminating international human rights instruments. It had recently requested B status from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. The national preventive mechanism provided for in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would be part of the Ombudsman's Office, which had been established under the Constitution of 1991. The National Council for Combating Discrimination had been established to oversee the direct and timely implementation of legislation to combat discrimination. It had been set up in 2002 and had had regional offices since 2007. Its decisions were often better known than those of the judiciary. It also conducted numerous activities to raise awareness of such legislation.

20. To combat homophobia, in 2008, the Council had, for example, imposed sanctions against the airline Tarom, which had denied homosexual couples a discount available to heterosexual couples. Discrimination on grounds of sexual orientation and incitement to discrimination were punishable under the Criminal Code. In 2006 Romania had adopted a law amending the framework law to combat discrimination, which now contained a broad definition of direct and indirect discrimination and a long list of prohibited grounds for discrimination. Since the entry into force of the new Criminal Code, those who considered themselves victims of discrimination could file a civil suit.

21. **Ms. Puscaragiu** (Romania) said that her country had agreed to allocate 0.33 per cent of its GNI to ODA by 2015. In July 2010 the National Agency for Equal Opportunities between Women and Men had been replaced by the Special Directorate for Equal Opportunities between Women and Men, which was part of the Ministry of Labour and oversaw the implementation of equal opportunities strategies. Although the Act on the Protection and Employment of Persons with Disabilities had been adopted in 2006, as neither labour legislation nor the legislation regulating the civil service and access to public places included disability among the grounds for discrimination, the National Council for Combating Discrimination had ruled that the Act should be read in conjunction with the anti-discrimination legislation, which listed all the grounds for discrimination in its article 2.

22. As 30 June 2014, people with disabilities made up 3.36 per cent of the population, and only 13.76 per cent of them had been employed. Existing hiring quotas required that persons with disabilities make up 4 per cent of the staff of public- and private-sector employers. Employers that did not comply with the obligation had to pay the State an amount equivalent to 50 per cent of the minimum salary that they would have paid to an employee with a disability, multiplied by the number of unfilled posts, or otherwise buy products and services resulting from the work of persons with disabilities.

23. In accordance with Government Ordinance No. 22/2014 on the social integration of foreigners, refugees and persons enjoying subsidiary protection could access the labour market on an equal basis with Romanians. That right of access also applied to asylum seekers whose status had not been regularized within one year after the filing of their request.

*Articles 10 to 12 of the Covenant*

24. **Ms. Ravenberg** asked what the State party was doing to combat the practice of obliging sick people and women in labour to give doctors an “envelope” before the latter would consent to perform certain medical acts, such as caesarean section. She asked why the maternal mortality rate in Romania was so high — twice the European average —, what measures the State party was taking to eliminate the risk factors associated with pregnancy, and whether it intended to follow up cases of maternal mortality so as to analyse the phenomenon. She requested information about Law No. 95/2006 on health reform and various measures to reduce child mortality, and asked how the State party planned to combat discrimination in the provision of sexual and reproductive health services to women living with HIV/AIDS.

25. **Mr. Pillay** asked what impact the poverty reduction policy had had on vulnerable and disadvantaged groups, such as elderly people, families with young children, people with disabilities and women in rural areas. He asked whether it was true that the Social Housing for Roma Communities Programme had never been implemented, and whether the State party intended to finally allocate funds to build housing for the Roma. He asked what measures the State party intended to take to ensure access to decent housing at an affordable price to all disadvantaged groups. Noting that, when the State party forcibly expelled someone, it offered no viable resettlement solutions, he asked whether it planned to adopt without delay legislation governing forcible expulsions that met international

standards, including the Committee's general comment No. 7 on the right to adequate housing and on forced evictions, and whether it intended to guarantee security of tenure to Roma living in unauthorized camps.

26. **Mr. Atangana** asked whether it was true that victims of domestic violence and trafficking struggled to bring their cases before the courts and obtain reparations. He had heard that the births of many children abandoned at birth or born outside the health-care framework were not reported to the authorities and asked what the State party was doing to correct the situation.

27. **Mr. Abashidze** asked whether the State party had adopted a comprehensive strategy for helping families and not only women and children. He requested more information about the health insurance system.

28. **Mr. Sadi** asked whether measures to combat prostitution, including child prostitution, implemented by the State party were effective, and whether the punishments in place were dissuasive.

29. **Ms. Shin** asked whether doctors who refused to perform abortions referred women who wished to have abortions to appropriate support services, and what measures were taken to prevent early pregnancies, which were particularly prevalent among girls between the ages of 15 and 19. It would be interesting to know whether the State party planned to include mandatory courses on sexual and reproductive health in school curricula. She invited the delegation to provide further information on how the rights of persons with mental disabilities living in institutions were safeguarded, given that their children were often removed at birth to be given up for adoption. She asked the delegation to provide information about the care provided in hospitals to Roma women and women with disabilities, who were usually placed in separate rooms with poor hygiene.

30. **Mr. Schrijver** asked how well the drinking water network covered rural areas, and what measures the State party had taken since the consideration of its previous periodic report, in 2009, to combat the high rates of drug addiction, smoking and alcoholism among young people.

*Articles 13 to 15 of the Covenant*

31. **Ms. Ravenberg** asked whether the State party had developed a national strategy to encourage pupils to remain in school with a particular focus on Roma children and children in rural and remote areas, whose dropout rates were well above the European average.

32. **Mr. Kerdoun** asked what factors prevented the implementation of the Education Act of 2011, and whether it was true, as various sources had alleged, that Roma children were segregated in school, being placed in separate classes and even schools, and if the State party was doing anything to remedy the situation. Noting that, despite free tuition, parents were obliged to pay part of the cost of recreational activities offered at school, Mr. Kerdoun asked how the State party intended to ensure that low-income families were not disadvantaged and did not, as a result, take their child out of school.

33. **Mr. Marchán Romero** asked what measures the State party had taken to promote the cultural identity, language and culture not only of Roma but also of the country's 19 other minorities, and to safeguard their right to participate in the country's cultural life by involving them in the cultural activities of the majority group.

34. **Mr. Abashidze** asked whether the situation of the Hungarian minority had improved since the consideration of the previous report, and whether the State party had concluded bilateral or multilateral agreements with neighbouring States with a view more easily to resolve problems that could be encountered by Romanians abroad and by nationals of those countries in Romania.

35. **Mr. Sadi** asked whether the few Roma children enrolled in regular schools suffered bullying.

36. **Mr. Schrijver** asked whether there were many publications in minority languages, and whether there were many broadcasts in those languages. He asked whether Internet access had become more widespread since the consideration of the previous report, when only half of the population had had access.

37. **The Chairperson** said that the Committee would continue its consideration of the third through fifth periodic reports of Romania at the next meeting.

#### **Miscellaneous matters**

*Statement by the Chairperson of the Committee on the occasion of the twenty-fifth anniversary of the Convention on the Rights of the Child*

38. **The Chairperson** said that, on the occasion of the twenty-fifth anniversary of the Convention on the Rights of the Child, the Committee on Economic, Social and Cultural Rights would like to acknowledge the considerable work done by the Committee on the Rights of the Child and the progress made in the promotion and protection of children's rights worldwide. He also recalled that, in basing its activities on that instrument, which had the most signatories (194) among the States Members of the United Nations of any United Nations convention, the United Nations Children's Fund (UNICEF) had become the first institution to adopt a human rights-based approach. On behalf of the Committee, he wished to express his appreciation for the Convention.

*The meeting rose at 6 p.m.*