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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined twentieth to twenty second periodic reports of Bulgaria***

1. The Committee considered the combined twentieth to twenty-second periodic reports of Bulgaria (CERD/C/BGR/20-22), submitted in one document, at its 2534th and 2535th meetings (see CERD/C/SR. 2534 and 2534), held on 4 and 5 May 2017. At its 2543 and 2544 meetings, held on 11 May 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twentieth to twenty-second periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee wishes to commend the open dialogue with the State party's multi-sectoral delegation. The Committee also notes the additional information submitted in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the adoption of the following legislative, institutional and policy measures taken by the State party:

(a) Implementation of the EU Reception Conditions and the Asylum Procedures Directives in 2015 that have had the effect of reducing the length of administrative detention for persons applying for asylum;

(b) Amendments to the Law on Refugees and Asylum seekers in October 2015 extending the child guardianship system to migrant children;

(c) Amendments to the Legal Aid Act in 2013 contributing to improved access to justice by disadvantaged groups and individuals;

(d) Amendments to the Law on Foreigners in 2013 to prohibit the detention of unaccompanied children;

(e) Strategy for Educational Integration for Children and Students from Ethnic Minority Groups (2015-2020) and its action plan;

(f) National Strategy on Migration, Asylum and Integration (2015-2020);

(g) National Roma Integration Strategy (2012-2020) and its actions plans; and,

* Adopted by the Committee at its ninety-second session (24 April to 12 May 2017).



(h) Health Strategy for Disadvantaged Persons Belonging to Ethnic Minorities (2005-2015).

4. The Committee further welcomes the ratification by the State party of the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities in 2012;

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011.

C. Concerns and recommendations

Visibility of the Convention

5. Bearing in mind the direct applicability of the Convention in the State party's legal order, the Committee regrets the lack of information on court cases in which the Convention's provisions were invoked before, or applied by, domestic courts (art. 2).

6. **The Committee recommends that the State party take appropriate measures, including through training, to ensure that judges, prosecutors and lawyers have knowledge of the provisions of the Convention to enable them to apply the Convention in relevant cases. It requests the State party to include in its next periodic report specific examples of the application of the Convention by domestic courts.**

Disaggregated data

7. The Committee regrets the lack of updated disaggregated statistical data regarding the *de facto* enjoyment by members of ethnic minorities and non-citizens, of the rights protected under the Convention, without which, it is difficult to assess the socio-economic situation of different groups in the State party. The Committee is also concerned about the lack of data on the ethnic composition of the prison population (art. 2).

8. **Drawing attention to the revised guidelines for reporting under the Convention (CERD/C/2007/1, paras. 10-12), and recalling its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party collect and publicize reliable statistical data on the social and economic situation of individual ethnic groups, disaggregated by areas where minority groups live in substantial numbers, in order to provide an adequate empirical basis for policies to enhance the equal enjoyment of rights under the Convention in Bulgaria. The Committee also recommends that the State party collect data on the ethnic composition of the prison population. The Committee requests the State party to provide it with such information in its next periodic report.**

Equality bodies

9. The Committee notes the information provided during the dialogue on measures taken to strengthen the capacity and outreach of the Commission for the Protection against Discrimination, as well as to bring the Ombudsman in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee, however, remains concerned about persisting shortcomings in the functioning of these equality bodies, despite its previous recommendations, owing in part to the limited independence of the Commission and the insufficient financial and human resources of the Ombudsman. The Committee is further concerned about the low number of discrimination complaints on grounds of race or ethnicity submitted to the Commission (art. 2).

10. **The Committee recommends that the State party**

(a) **Take immediate measures to strengthen the capacity, independence, and financial resources of both equality bodies, and pursue its efforts to bring the Ombudsman in full compliance with the Paris Principles, including by undertaking the necessary legislative amendments to the Ombudsman Act, as indicated during the dialogue, taking into consideration the Committee's general recommendation no. 17**

(1993) on the establishment of national institutions to facilitate the implementation of the Convention;

(b) Take effective measures to reinforce the public confidence in existing institutions and mechanisms responsible for addressing racist hate crimes;

(c) Embark on awareness raising campaigns on the available mechanisms to submit complaints within the general public and among groups specifically vulnerable to discrimination;

(d) Ensure that complaints procedures are simple, widely known, and accessible for all.

Hate speech and hate crimes

11. The Committee is deeply concerned at the reported increase in incidents of hate speech and hate crime during the period under review, specifically targeting minority groups such as Turks, Roma, Muslims,, Jews, people of African descent, migrants, refugees, and asylum seekers. The Committee is in particular concerned that racist discourse and appeals are evident during election campaigns and that political parties and candidates frequently use slurs against minority groups and individuals. Moreover, the Committee notes with concern that the Council for Electronic Media has failed to curb racist discourse and the spread of hate speech on the internet and social media. (arts. 2, 4 and 7).

12. Pursuant to its general recommendation no. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Amend the Act on Protection against Discrimination and other acts as necessary to include a definition of hate speech in line with article 4 of the Convention, bearing also in mind its general recommendations No. 7(1985) on article 4 of the Convention and No. 15 (1993) relating to the implementation of article 4;

(b) Establish protocols to prevent and condemn hate speech by public officials and politicians, and investigate incidents of racist hate speech and racially motivated violence, and take appropriate measures against persons using hate speech and prosecute perpetrators of racially motivated crimes;

(c) Raise the awareness of the public on respect for diversity and the elimination of racial discrimination;

(d) Ensure that media related legislation is in accordance with international standards, and take effective measures to strengthen the mandate and capacity of the Council for Electronic Media to prevent, sanction and deter any racist manifestations in the media.

Criminal justice system

13. The Committee regrets the limited application of article 162(2) of the Criminal Code, among other articles addressing racist offences, by law enforcement officials, and the low conviction rate of racist crimes, despite the reported increase in such crimes over the reporting period. The Committee also notes with concern the apparent contradiction in statistics provided in the State party report and that provided by international organizations concerning reporting, prosecuting and sentencing of hate crimes (arts. 1, 2 and 4).

14. The Committee recalls that the provisions of article 4 of the Convention are mandatory. States parties have not only to enact appropriate legislation, but also to ensure that it is effectively enforced. Recalling its general recommendations no. 26 (2000) on article 6 of the Convention and no. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Conduct awareness-raising campaigns among the public about the existence of criminal law provisions penalizing racially motivated acts and encourage victims of such acts to lodge complaints;

(b) Enhance its efforts to improve access to justice and the functioning of the judicial system, including by intensifying training to police, prosecutors, judges and

professionals in the judicial system on the importance of prosecuting racist acts and the application of laws on racist offences;

(c) **Consider appointing special prosecutors to address hate speech and hate crimes with a view to increasing the reporting rate of such crimes and application of related criminal provisions; and,**

(d) **Provide updated information concerning the application by the courts of anti-discrimination provisions and statistical data on the number and nature of reported crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by the age, gender and national or ethnic origin of victims as well migration status.**

Civil and administrative liability

15. While noting that the application of the Criminal Code remains central to combating racial discrimination, the Committee expresses concern at the lack of comprehensive information on instruments of civil and administrative liability, which are also essential for enhancing the prevention of racial discrimination and effective recourse to justice by its victims (arts. 1, 2 and 4).

16. The Committee recommends that the State party include in its next periodic report information on all instruments that establish civil, labour, and administrative liability for acts of racial discrimination, and data on administrative procedures and sanctions handed down by the competent bodies.

Political participation of minority groups

17. While regretting the absence of statistical data on political representation of ethnic and minority groups in the State party, the Committee is concerned about the reported limited representation of minority groups in the Parliament and in the public services (arts. 2 and 5).

18. The Committee recommends that the State party provide statistical data in its next periodic report on the representation of minority groups in the Parliament and public services. In the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party take concrete measures to ensure that minority ethnic groups are adequately represented in Parliament and in the civil service.

Discrimination against the Roma

19. The Committee is aware of the many institutional and policy measures adopted by the State party that aim at eliminating racial discrimination against the Roma. It is, however, concerned about the continued marginalization of the Roma in all walks of life, including public and political life, and the serious challenges they face in accessing basic services, attributed to limited funding and deficient implementation of related initiatives. The Committee is in particular concerned about:

(a) The prevalence of forced evictions disproportionately affecting the Roma, leading to homelessness;

(b) The persistence of *de facto* educational segregation, combined with limited access to mainstream education, especially at pre-school level, and high school dropout rates, including at primary level;

(c) The high level of unemployment among the Roma and their concentration in low-income occupations;

(d) The considerable number of Roma lacking health insurance and impediments in access to quality health care services; and,

(e) Persistence of negative stereotypes of, and prejudices against the Roma, including their dissemination through the media (arts. 2, 3 and 5).

20. The Committee recommends that the State party evaluate its national, regional and municipal strategies on Roma and provide detailed information to the Committee in its next periodic report on results of such initiatives and progress made in achieving the rights of the Roma. Recalling its general recommendation No. 27 on discrimination against Roma, the Committee recommends that the State party:

(a) Stop the persistent practice of forced evictions and destruction of Roma settlements without offering alternative housing or adequate compensation, and take measures to legalise existing settlements to the extent possible, in the meanwhile facilitating access to basic services in these settlements;

(b) Strengthen its efforts to provide adequate social housing to Roma families through special programmes for housing by municipalities, including by allocating an adequate budget for such programmes;

(c) Firmly address the issue of *de facto* segregation of Roma children in education in line with article 3 of the Convention. The Committee underlines that conditions of racial segregation are not necessarily created by governmental policies but may arise as an unintended by-product of actions of private persons leading to social isolation. The State party should eliminate any discrimination against Roma pupils in their access to adequate education and combat stereotypes that lead to social exclusion;

(d) Intensify its efforts to increase pre-school attendance among the Roma and decrease dropout rates at all school levels;

(e) Take effective measures to facilitate training and employment of Roma, including through adoption or expansion of effective measures, such as targeted assistance with job-seeking in the mainstream labour market and special measures for employment in the public sector and incentives for employment in the private sector;

(f) Pursue its efforts to expand health insurance coverage among the Roma and the outreach of the medical mobile units, including emergency healthcare services, throughout all settlements with a considerable Roma population, and ensure that Roma can access quality health care services without discrimination, and train medical professionals to interact effectively with people from different cultural backgrounds; and,

(g) Take immediate steps, such as awareness raising campaigns, to eliminate prejudices and stereotypes regarding Roma and their contribution to society, to secure their adequate representation in political and public life.

Migrants, refugees and asylum seekers

21. The Committee is aware of the increased number of migrants, refugees and asylum seekers in the State party. It also appreciates measures taken in collaboration with United Nations and EU entities to improve the living conditions in reception centers and the functioning of the asylum system. The Committee remains concerned, however, about the following:

(a) Reports of pushbacks of migrants accompanied by excessive use of force by border police, and of refoulement, including of those with specific needs or vulnerabilities;

(b) Criminalization of irregular border crossing;

(c) Limited funds allocated to the State Agency for Refugees and the suspension of the monthly payment (32Euros) to all asylum seekers residing in reception centres;

(d) Lack of early identification, assessment and referral mechanisms for asylum seekers in vulnerable situations, such as unaccompanied children, and the frequent absence of individual, qualified legal guardians for unaccompanied children;

(e) Persistence of administrative detention of undocumented asylum seekers, as well as widening the grounds for detaining asylum seekers as of January 2016, combined with substandard material conditions in administrative detention centres and reports of ill treatment; and,

(f) Practical hurdles faced by beneficiaries of international protection, including lack of access to social housing and language training, that hinder their enjoyment of socio-economic rights (arts. 5 and 6).

22. **The Committee recommends that the State party take a human-rights based approach and integrate a non-discrimination perspective into its migration governance. Recalling its general recommendations No. 22 (1996) on article 5 on refugees and displaced persons and No. 30 (2004) on discrimination against non-citizens, the Committee urges the State party to:**

(a) **Refrain from pushbacks and refoulement, conduct individual assessments, ensure the availability of adequate procedural safeguards, investigate effectively any excessive use of force by law enforcement officials in the context of migration at the border or in detention facilities, and bring perpetrators to justice by sanctioning them adequately;**

(b) **Decriminalise irregular border crossing and develop policies and avenues to regularize the status of migrants, in particular those in a situation of vulnerability;**

(c) **Increase the funds of the State Agency for Refugees to enable it to discharge its functions effectively, and reinstate an adequate monthly payment for all asylum seekers residing in reception centres;**

(d) **Put in place procedures to permit the rapid and appropriate identification of persons in vulnerable situations, ensure that staff are trained to conduct identification and referral procedures in a sensitive manner; guarantee the availability of individual and qualified legal guardians to all unaccompanied children and to that end strengthen the human and financial capacity of municipalities;**

(e) **Repeal mandatory detention of undocumented asylum seekers and consider developing alternatives to detention, and at the same time ensure that detainees enjoy due process and fair trial guarantees; continue improving the capacity and material conditions of reception centres, and ensure that all asylum seekers have access to basic services, including health care, psychological assistance, and education; and,**

(f) **Step up integration efforts for beneficiaries of international protection, including through facilitating access to social housing and language training, with a view to ensuring their access to socio-economic rights, and to that end effectively implement the (2015) National Strategy on Migration, Asylum and Integration.**

D. Other recommendations

Ratification of other treaties

23. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2003, and the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.**

Follow-up to the Durban Declaration and Programme of Action

24. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. 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.

International Decade for People of African Descent

25. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

26. The Committee recommends that the State party continue consulting and enhancing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

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

Follow-up to the present concluding observations

28. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 10 (a) and 22 above.

Paragraphs of particular importance

29. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 12, 14 and 20 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

30. The Committee recommends that the State party submit its 23rd to 25th combined periodic reports, as a single document, by 4 January 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.