

**ADVANCE UNEDITED VERSION**

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**Committee on the Elimination of Racial Discrimination****Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary\***

1. The Committee considered the combined eighteenth to twenty-fifth periodic reports (CERD/C/HUN/18-25), submitted in one document, at its 2719<sup>th</sup> and 2720<sup>th</sup> meetings (see CERD/C/SR.2719 and 2720), held on 29 and 30 April 2019. At its 2733<sup>rd</sup> meeting, held on 8 May 2019, it adopted the present concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the eighteenth to twenty-fifth periodic reports of the State party, while regretting the delay in their submission.

3. The Committee expresses its appreciation for the frank and constructive dialogue with the State party's high level delegation. The Committee wishes to thank the delegation for the information provided during the consideration of the report, and for the additional written information submitted after the dialogue.

**B. Positive aspects**

4. The Committee welcomes the State party's ratification of the Convention on the Rights of Persons with Disabilities, the Optional protocol to the Convention on the Rights of Persons with Disabilities, and the Inquiry procedure under the Convention on the Rights of Persons with Disabilities on 20 July 2007, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography on 24 February 2010, and its accession to the Optional Protocol of the Convention against Torture on 12 January 2012.

5. The Committee also welcomes the adoption of Act CXXV of 2003 on equal treatment and on promotion of equal opportunities (Equal Treatment Act).

**C. Concerns and recommendations****Statistics**

6. The Committee notes the statistics provided by the State party after the dialogue on the ethnic composition of the population and mother tongue from the 2011 census. The Committee also notes some socio-economic indicators on the situation of Roma, however, it regrets that the State party has not provided statistics or comprehensive information on the

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\* Adopted by the Committee at its 98<sup>th</sup> session (23 April – 10 May 2019).

policy for the collection of socio-economic indicators for other ethnic groups. It also regrets the lack of statistics on migrants, asylum seekers, and refugees encompassing multiple years (art. 2).

**7. Recalling its revised reporting guidelines (CERD/C/2007/1) and its general recommendation No.8 (1990) on self-identification, the Committee recommends that the State party provide updated statistics on the ethnic composition of its population disaggregated by ethnicity, national origin and languages spoken, and socio-economic indicators on the enjoyment of rights by various ethnic groups disaggregated by sex, gender and ethnicity, including through dialogue with ethnic minorities and through diversifying its data collection activities by using various indicators of ethnic diversity and by allowing respondents to report anonymously and to choose self-identification, in order to provide an adequate empirical basis for monitoring the enjoyment of all the rights enshrined in the Convention. The Committee also requests statistics on migrants, asylum seekers and refugees encompassing multiple years.**

#### **National human rights institution**

8. While welcoming the establishment of the Commissioner for Fundamental Rights in 2011, and its subsequent “A status” by the GANHRI, the Committee is concerned that the Deputy Commissioner responsible for the rights of national minorities is placed under the Commissioner for Fundamental Rights with special regard to the rights of the child and disabled people, which may impede the ability of the Deputy Commissioner’s work towards prohibiting racial discrimination in a fully independent and impartial manner. The Committee regrets the lack of information on the work of the Office of the Commissioner to prevent racial discrimination and xenophobia against vulnerable ethnic minorities including migrants, refugees and asylum seekers. The Committee also takes note of the establishment of the Deputy Commissioner responsible for the work for future generations.

**9. The Committee recommends that the State party ensure that the Commissioner for Fundamental Rights and its Deputies are able to fully discharge its mandate in an independent and impartial manner, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee recommends that the Commissioner’s Office increase its work on the prohibition of racial discrimination and xenophobia, particularly against vulnerable ethnic minorities, including , migrants, refugees and asylum seekers, and assist all victims of violations under the Convention with access to justice. The Committee recommends that that awareness-raising programmes be carried out by the Deputy Commissioner in charge of future generations particularly on sustainable development and human rights education for the youth, in the perspective of tolerance as set out in article 7 of the Convention.**

#### **Anti-discrimination legal framework and its enforcement**

10. While noting the State party’s progress in strengthening its legal framework against racial discrimination since 2002, such as through the Fundamental Law of Hungary, the Equal Treatment Act, and specific provisions of the Labour Code that promote equal treatment, the Committee is concerned that the legal provisions prohibiting discrimination do not include all prohibited grounds of discrimination, as specified in Article 1 of the Convention. The Committee is also concerned at the lack of full and consistent implementation of these legal provisions and lack of detailed examples of specific invocation of legal provisions prohibiting racial discrimination in courts and relevant complaint mechanisms.

**11. The Committee recommends that the State party ensure all legislation prohibiting racial discrimination includes all grounds of discrimination, as stipulated in Article 1 (1) of the Convention. The Committee recommends that the State party take measures to ensure the full and effective implementation of existing legal provisions prohibiting racial discrimination, facilitate effective access to justice, and appropriate remedies for all victims of racial discrimination. The Committee requests that the State party provide in its next periodic report detailed examples of cases with analysis and**

**data on the application of the Convention through relevant legal provisions in judicial and administrative decisions.**

#### **Complaints of racial discrimination**

12. The Committee takes note of information that the Equal Treatment Authority and Commissioner for Fundamental Rights each consider complaints on racial discrimination under their mandates, and the information provided following the dialogue on some categories of cases considered by each and by the national judiciary. However, the Committee regrets the lack of clarity on which entity holds the jurisdiction for complaints in criminal cases, and that particularly in the area of criminal prosecution, the lack of comprehensive information on the criteria for indictment, verdict and penalty, disaggregated by the national or ethnic origin of the perpetrators and the victims, The Committee reminds the State party that a low number of complaints does not signify the absence of racial discrimination in the State party, but may signify barriers in invoking the rights in the Convention domestically, such as a lack of trust in justice institutions and the authorities by victims (arts. 6-7).

**13. The Committee recommends that the State party provide it with detailed information on complaints of racial discrimination to the Equal Treatment Authority, Commissioner for Fundamental Rights and courts or other relevant complaint mechanisms including statistics on the number and type of complaints of racial discrimination and prosecutions and convictions of perpetrators, disaggregated by the age, gender and ethnic origin of the victim, as well as information on compensation to victims. It also recommends the State party facilitate the lodging of complaints and ensure access to justice to all victims of racial discrimination via judicial and non-judicial recourse.**

#### **Racist hate crimes**

14. While noting information provided on the legal framework on hate crimes and measures taken to train police, and noting information on application of the recently amended criminal legislation, submitted after the dialogue, the Committee is concerned: (a) by the persistence of racist hate crimes, including violent racist hate crimes, in particular against the Roma; (b) about the lack of clarity on the criteria for the imposition of various penalties for perpetrators of hate crimes and other measures for the protection of vulnerable groups; (c) that the improper classification and recording of cases of hate crimes and lack of proper investigations leads to a lack of accountability of perpetrators; and (d) by reports that the hate crime provisions are applied more frequently to protect the majority and not ethnic minority groups and more severe punishments are applied in cases where the offenders belong to ethnic minority groups (arts. 4 and 6).

**15. In the light of its general recommendation No. 7 (1985) relating to the implementation of Article 4, the Committee recommends that the State party strengthen its efforts to combat racist hate crimes effectively, including through:**

**(a) Taking immediate measures to prevent racist hate crimes and racist violence, and protect vulnerable groups;**

**(b) Providing detailed information on the implementation and impact of legislation preventing racist hate crimes and other measures to protect vulnerable groups, including examples of cases and statistics on numbers and types of complaints, investigations, convictions and sanctions, disaggregated by ethnicity age and gender of the perpetrators and victims. Provide information on the criteria for imposing sanctions;**

**(c) Continue to provide trainings to police officers, prosecutors, lawyers as well as the judiciary on proper identification, registration, investigation, and prosecution of racist hate crimes; Ensure the effective registration and investigation and prosecution of all reported hate crime, and punish convicted perpetrators with appropriate penalties;**

(d) **Ensuring that legislation on racist hate crimes protects the majority and minority groups from racist incidents in an equal manner and that penalties are imposed on the basis of objective criteria and not on the basis of the ethnicity of the perpetrator or victim.**

#### **Racist hate speech**

16. The Committee is deeply alarmed by the prevalence of racist hate speech in the State party against the Roma, migrants, refugees, asylum seekers and other minorities, fueling hatred and intolerance and at times incitement to violence towards such groups, in particular from leading politicians and in the media, including on the internet. The Committee is especially deeply alarmed at reports that public figures in the State party, including at the highest levels have made statements that may promote racial hatred, in particular as part of the Government's anti-immigrant and anti-refugee campaign started in 2015. The Committee is further concerned by the lack of detailed information on the investigations, prosecutions, and convictions of racist hate speech especially by public figures, including politicians (art. 4).

17. **Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:**

(a) **Take all immediate measures to stop racist hate speech and incitement to violence. Publicly condemn and distance itself, including in the media and on the internet, from racist hate speech by public figures, including politicians, and take measures to protect vulnerable affected groups;**

(b) **Ensure that all measures are taken to prevent racist hate speech and incitement to racial hatred by all persons including public officials and politicians, and through strengthening and implementing relevant legislation;**

(c) **Effectively identify, register, investigate and prosecute cases of racist hate speech, or incitement to racial hatred, and sanction those responsible, including politicians and media officials, and provide detailed information on investigations, prosecution and convictions of racist hate speech in its next periodic report.**

#### **Prohibition of organizations that promote racial discrimination**

18. The Committee is deeply concerned at the presence and operation of organizations that promote racial hatred in the State party. The Committee is also concerned by the lack of information on the impact of Act XL of 2011 and section 351 of the Criminal Code on preventing the formation and operation of such organizations, and the lack of information on the impact of any measures taken by the State party to prevent incitement to hatred generated by these organizations (art. 4).

19. **The Committee recommends that the State party declare illegal and prohibit organizations that promote and incite racial hatred, in line with its obligations under article 4 (b) of the Convention. The Committee also recommends that the State party ensure the full implementation of its legislation and prohibit the organization and operation of groups which promote and incite racial hatred, in line with Article 4 of the Convention.**

#### **Situation of Roma**

20. While taking note of the information on the measures taken to improve the situation of the Roma including in the fields of health and education as well as through the Hungarian National Social Inclusion Strategy of 2011, the Committee remains highly concerned at the persistence of discrimination, segregation, and the extreme poverty faced by Roma. The Committee is particularly concerned about:

(a) The absence of consistent and reliable statistics on the Roma population, and on the numbers of Roma students in schools, which may hinder the planning of effective measures to address discrimination;

(b) The persistence of structural discrimination against Roma despite the existence of some policies and measures to address this;

(c) The persistence of segregation in education faced by Roma children which has reportedly increased, and its impact on the future of Roma, and by reports that many Roma children enter the workforce at age 16 instead of pursuing higher education;

(d) That Roma face extreme poverty and live in segregated neighborhoods which lack proper infrastructure and services; and at the reported unlawful destruction of one such segregated neighborhood, without providing adequate alternative housing to the inhabitants;

(e) Reports that Roma women face discrimination and harassment in accessing health care;

(f) Reports of high levels of unemployment among Roma, and the extreme income gap between Roma and the rest of the society;

(g) Reports that Roma are subjected to a high level of hate crimes, including violent hate crimes, and reports that adequate protection is not provided to these communities from law enforcement;

(h) Reports that Roma are faced with ethnic profiling by law enforcement officers;

(i) Persistence of hate speech against Roma, including by public officials.

**21. Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to improve the situation of the Roma, including through coordination at all levels of government and through engaging with Roma communities in the design, implementation and evaluation of inclusion policies and action plans. The Committee further recommends that the State party:**

**(a) Ensure reliable statistics on the Roma population and on Roma students in schools, through means of self-identification;**

**(b) Take all measures to eliminate structural discrimination against Roma;**

**(c) End all segregation in education faced by Roma children and take effective measures, including special measures in accordance with its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, to enhance rates of school attendance, including in institutions of higher education, and completion among Roma children and to improve their educational opportunities and achievements;**

**(d) Take measures to end extreme poverty among Roma. Provide genuine solutions for Roma housing problems including through improving the infrastructure and basic services, available in Roma settlements, and engage Roma communities in such undertakings. End any forced evictions of Roma and housing demolitions;**

**(e) Ensure all Roma have full and unhindered access to healthcare without discrimination and harassment;**

**(f) Take effective measures to end unemployment among Roma and to eliminate the income gap;**

**(g) Take measures to end hate crimes against Roma, provide them with protection from hate crimes and violence, and ensure the proper registration, investigation, prosecution and conviction of perpetrators of any cases of hate crimes;**

**(h) Prevent all ethnic profiling by law enforcement, conduct trainings to ensure such practices are not utilized;**

**(i) Prevent hate speech against Roma, including through educational campaigns on tolerance and the elimination of societal stereotypes, as well as the proper registration, investigation, prosecution and conviction of perpetrators of any cases of hate speech.**

#### **Situation of asylum seekers, migrants and refugees**

22. The Committee is deeply concerned by the alarming situation of asylum seekers, refugees and migrants in the State party especially following the state of emergency declared since 2015, including:

(a) The legislative amendments and reform in 2017 which led to the indefinite holding of all asylum applicants, except for minors below the age of 14, for the duration of their asylum process in transit zones separated from Hungarian society, without sufficient legal safeguards to challenge removal to these transit zones;

(b) By reports that the conditions in transit zones are not adequate for long term stay of individuals, especially women and children, and reported challenges in accessing adequate medical services, education, social and psychological services and legal aid in the transit zones;

(c) By reports that food is not provided to individuals held in the transit zone once their asylum applications are denied;

(d) By reports of the persistence of hate speech, hate crimes, prejudice and social stereotypes against asylum seekers, refugees and migrants.

**23. Recalling its general recommendation No. 22 (1996) on refugees and displaced persons, and its general recommendation No. 30 (2004) on discrimination against non-citizens the Committee recommends that the State party take immediate measures to ensure policies towards refugees, asylum seekers and migrants are in line with its international obligations, including with this Convention, and:**

**(a) Ensure that detention of asylum seekers is used as a measure of last resort for the shortest period of time and prioritize alternative measures to detention;**

**(b) Ensure that all applications for asylum status receive appropriate consideration;**

**(c) Ensure effective access to asylum procedures;**

**(d) Take measures to improve conditions in transit zones, including for women and children, and ensure full access to adequate medical services, education, social and psychological services and legal aid;**

**(e) Ensure that all persons are provided with adequate food;**

**(f) Conduct public campaigns promoting understanding and tolerance.**

#### **Non-refoulement and use of force against asylum seekers**

24. The Committee is deeply concerned at the reports that the non-refoulement principle is not fully respected in law and in practice, The Committee also expresses deep alarm at the reported excessive use of force and violence by law enforcement officers against third country nationals found anywhere in Hungary while “pushing back” to Serbia resulting in injuries and bodily harm.

**25. The Committee recommends that the State party take all measures to ensure the full respect of the principle of non-refoulement. It also recommends that the State party prevent the excessive use of force, and ensure training, and effective and independent monitoring of law enforcement personnel involved with refugees, migrants and asylum seekers, to eliminate ill treatment.**

#### **Trainings and education on human rights and racial discrimination**

26. The Committee is concerned at the lack of detailed information on trainings conducted among judges, prosecutors, lawyers and State and public officials on the prevention of racial discrimination and on the rights enshrined in the Convention. The Committee is also concerned by the lack of information on human rights trainings and education in the curriculum taught in school and at the university level, and the impact of such trainings. The Committee is concerned about the absence of information on specific measures aimed at fostering and promoting understanding and tolerance among different ethnic groups, refugees, migrants and asylum seekers in the State party (art. 7).

**27. The Committee recommends that the State party conduct training programmes for law enforcement officers, judges, prosecutors, lawyers and State and public officials, including specialized trainings on the prevention of racial discrimination and the rights**

enshrined in the Convention. It requests that the State party provide detailed information in its next periodic report on such training programmes and the impact of such training on the situation of ethnic minorities. The Committee recommends that the State party provide information on human rights training and education in the curricula of all schools and at university level. It also recommends that the State party provide information on the measures taken to promote and foster tolerance and understanding among different ethnic groups in its territory.

#### **D. Other recommendations**

##### **Ratification of other treaties**

28. 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 and the Convention for the Protection of All Persons from Enforced Disappearance.

##### **Amendment to article 8 of the Convention**

29. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

##### **Follow-up to the Durban Declaration and Programme of Action**

30. 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**

31. 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 in collaboration with organizations and peoples of African descent. 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**

32. The Committee recommends that the State party continue consulting and increasing 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**

33. 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 those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities in the official and other commonly used languages, as appropriate.

#### **Common core document**

34. The Committee encourages the State party to submit a core document and to regularly update it, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I).

#### **Follow-up to the present concluding observations**

35. 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 13 (Complaints of racial discrimination), 15b (Racist hate crimes) and 21a (Situation of Roma) above.

#### **Paragraphs of particular importance**

36. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 17 (Racist hate speech), 21 (Situation of Roma) and 27 (Trainings and education on human rights and racial discrimination) 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**

37. The Committee recommends that the State party submit its combined 26<sup>th</sup> to 27<sup>th</sup> periodic reports, as a single document, by 4 June 2022 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 and 42,400 words for the common core document.

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