

HUNGARY

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

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35. [At its fourth session] . . . The Committee decided that further information was needed from the following six States Parties, whose initial reports were considered “incomplete” or “unsatisfactory”:
... Hungary . . .

CERD 28TH NO.18 (A/9018) (1973)

188. The initial report of Hungary, submitted on 29 June 1971, was considered by the Committee at its fourth session. It was considered unsatisfactory and additional information was requested; however, the Committee indicated that such information need not be submitted in a supplementary report, but might be embodied in the second periodic report. The second periodic report, submitted on 23 February 1972, was considered by the Committee at the seventh session (136th and 137th meetings).

189. Some members noted that the report under consideration was more informative than the initial report. Members took note of the relevant changes in Hungarian legislation by virtue of law-decree No. 35 of 1970 and law-decree No. 38 of 1971. Special note was taken of the information concerning a case of racial incitement which had been brought before the Budapest Municipal Court. Although the report under consideration was submitted before the adoption of the Committee's general recommendation III, and did not contain information on the status of the reporting State's relations with the racist régimes of southern Africa, it was noted that, in a communication addressed to the Secretary-General on 17 February 1972 by its Minister for Foreign Affairs, the Government of Hungary had declared that it had no relations of any kind with any racist régime and did not wish to establish any relations with them in the future, and that it provided moral support and material aid to the peoples and national liberation movements struggling against racial discrimination and apartheid.

190. Members noted that the report under consideration was not organized in conformity with the guidelines laid down by the Committee; that the texts of provisions of the Criminal Code and other legislation cited in the report were not furnished to the Committee; that the information on judicial measures was not complete; and that the information on some legislative measures was obscure. It was also observed that no information was provided on the existing legislation, which was described as adequate to meet the requirements of the Convention, and which led the reporting State to conclude that it did not need to adopt special legislative measures in order to give effect to the provisions of the Convention.

191. Questions were raised about apparent contradictions in the information regarding penalties for crimes and delicts, and about the relationship between the Convention and internal legislation in Hungary; and the wish was expressed that the texts of the legislation cited in the report would be transmitted to the Committee.

192. The representative of Hungary reaffirmed that, at the international level, his Government always implemented United Nations resolutions relating to racial discrimination and apartheid and participated in all international activities aimed at the elimination of colonialism and discrimination. At the domestic level, the new Constitution of 1972 reaffirmed the equality of all citizens before the law and prohibited any manifestation of racial discrimination; it also proclaimed the equal rights of nationalities with regard to language, education and culture. The Civil Code was the guarantee of that fundamental equality; and a number of administrative measures had been taken to guarantee the application of the policy of protecting and promoting national minorities. He replied to some of the

questions relating to section 127 of the Criminal Code.

193. The Committee decided to consider the report satisfactory and to express the hope that the Hungarian Government - in its third periodic report, or earlier should the occasion arise - would amplify the information contained in the second periodic report.

CERD 29TH NO. 18 (A/9618) (1974)

158. The third periodic report of Hungary was considered in conjunction with the information submitted by the Government of Hungary in response to decision 3 (VII) of the Committee. The Committee noted that, in 1972 and 1973, several relevant legislative developments had occurred, including amendments to the Constitution, a new law on the courts and an amendment to the Criminal Code.

159. It was observed that the relevant constitutional and other legislative provisions cited in the report dealt mainly with the rights of the nationalities. The Committee welcomed the fact that, under the new provisions the scope of those rights was extended, all nationalities in Hungary were guaranteed equal rights, and nationalities were guaranteed the right to use their respective languages in the courts and in education. The information on the implementation of article 4 of the Convention showed that Hungarian law gave effect to most of the provisions of that article.

160. Members of the Committee asked whether there was a national body in Hungary responsible for watching over the interests of the minorities, and whether the administrative tribunals had intervened in important questions relating to the provisions of the Convention and, if so, what their rulings or decisions had been.

161. The representative of the Government of Hungary expounded on the information contained in the report under consideration.

CERD A/31/18 + CORR. 1 (1976)

103. The Committee noted with appreciation that the fourth periodic report of Hungary, and the introductory statement made by the representative of the Government of that country, replied to questions raised during the consideration of past reports of Hungary.

104. Members of the Committee took note of the information that a new penal code was currently under preparation by the Ministry of Justice and that consideration was being given to the question whether the addition of further criminal provisions was necessary for the implementation of the Convention. They observed that existing Hungarian legislation appeared to fulfil the requirements of article 4 of the Convention and expressed the hope that the relevant provisions would not be weakened in the projected revised penal code.

105. The questions asked by members of the Committee related to: (a) the efforts made by the Hungarian Government to integrate the gipsies into the population, and why no information on those efforts was included in the report; (b) the measures taken to give effect to the provisions of articles 5 and 7 of the Convention; and (c) the provision of section 103 of Act I of 1968 on Petty Offences, which provided for penalties for participation in the activities of an association or organization whose functioning was not acknowledged and approved by the appropriate authority, and whether that provision might not affect the rights mentioned in article 5, paragraph (e), subparagraphs (vii), (viii) and (ix), of the Convention.

106. The hope was expressed that the next report of Hungary would include information on administrative measures giving effect to the provisions of the Convention and the text of the relevant provisions of the new penal code; and that the text of the amended Constitution of Hungary of 1972 would be made available to the Committee.

107. The representative of the Government of Hungary stated that the reason for omitting any references to the Hungarian gipsies in the report under consideration was that another report, giving full details of their position and treatment, had already been submitted to another United Nations organ. With respect to article 5 of the Convention, he said that it was his Government's understanding that that provision related to general human rights, a report on which was presented biennially to the Commission on Human Rights. In both those cases, his Government had attempted to avoid undue repetition; but, if the Committee required that such information be repeated in the periodic reports, he was sure that his Government would be prepared to do so. Regarding the new penal code in course of preparation, he was able to assure the Committee that it would not omit any of the safeguards against racial discrimination that were contained in the penal code currently in force.

CERD A/33/18 (1978)

260. The fifth periodic report of Hungary was considered together with the introductory statement made by the representative of the reporting State.

261. It was noted with appreciation that the report under consideration contained replies to most of the questions raised during the Committee's consideration of the fourth periodic report of Hungary (A/31/18 and Corr.1, paras. 105 and 106) and that, in response to the requests made by the Committee, the Constitution of Hungary and Act V of 1976 on Public Education were circulated to the Committee as supplements to the fifth periodic report. It was noted, however, that the question concerning the provisions of section 103 of Act I of 1968 on Petty Offences, which was raised at the thirteenth session (A/31/18 and Corr.1, para. 105 (c)), had remained unanswered; and it was therefore repeated at the eighteenth session.

262. With regard to the fundamental obligation to prohibit and punish acts of racial discrimination, in accordance with article 2, paragraph 1, of the Convention, it was observed that article 138 of the Penal Code, which made it a crime for any person to cause "serious bodily or mental injury" to members of a national, ethnic or racial group on account of belonging to such a group did not satisfy all the relevant requirements of the Convention; and the qualification of "bodily or mental injury" by the adjective "serious" caused some concern to some members of the Committee. However, a member of the Committee thought that article 138 of the Penal Code was intended to put into effect the provisions of article II (b) of the Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III), annex).

263. The information given in the report, in response to the request made by the Committee at its thirteenth session (A/31/18 and Corr.1, para. 105 (a)), on the measures taken by the reporting State with regard to the Gypsies - in furtherance of the objectives of article 2, paragraph 2, of the Convention - was welcomed. Some members of the Committee, noting that increasing numbers of Gypsies were being employed and settled, expressed the hope that the Gypsies would be able to preserve the essence of their own distinctive cultural characteristics while enjoying better living conditions and making their contribution to the country's economic life. With regard to the housing of the Gypsy population, it was asked whether it had been possible to do away with the segregated settlements of Gypsies in the countryside and in villages and whether the population of the rural areas had accepted the resettling of Gypsies in places other than those which they had inhabited earlier. And a question was asked about the opportunities which Gypsies had to participate in the Government and in political activities.

264. With reference to the right of equality before the law, provided for in article 5 of the Convention, members of the Committee noted that article 61 (1) of the Hungarian Constitution guaranteed equality before the law and in the enjoyment of rights to the "citizens" of the Hungarian People's Republic. Clarification of the precise meaning of the term "legal capacity", used in article 8, paragraph 2, of Act IV of 1959 on the Civil Code, was requested; and it was asked whether the provisions of that article applied to aliens as well as nationals. Information on the rights of aliens in general was requested. Recalling that, under article 5, subparagraph (d) (v) of the Convention, States

parties are under the obligation to guarantee to everyone without discrimination equality before the law in the enjoyment of the right to own property, including intellectual property, a member of the Committee noted that the legislation in force in Hungary protected that right and requested the reporting State to furnish the Committee with the text of its relevant legislation.

265. With regard to the implementation of the provisions of article 6 of the Convention, it was asked whether a person who suffered discrimination could institute proceedings to obtain just reparation or whether an action could be brought exclusively on the initiative of the public prosecutor's office as appeared to be prescribed by article 51 of the Constitution. Information on how the courts had applied the provisions of the Civil Code and the Penal Code which reflected the principles of the Convention was requested. The representative of Hungary said that, under existing legislation, any citizen could institute legal proceedings if his rights were violated.

266. It was hoped that the information given in the fifth periodic report on the implementation of article 7 of the Convention would be expanded in the next report.

267. A request was made for the up-dating of the demographic information supplied in the third periodic report, which reflected the situation in 1970.

268. The provisions of article 61, paragraph 3, of the Hungarian Constitution - which guaranteed the equality of rights to all nationalities living in the territory of the reporting State, the use of their mother tongue, education in their mother tongue, and the preservation and cultivation of their own culture - were noted. A member of the Committee observed that the use of "nationalities" instead of "ethnic groups" was important, for it reflected the way in which - in accordance with the Marxist view - the problem of nationalities should be treated: it was essential to advance from the concept of an ethnic group, which was in need of protection, to the concept of the full integration of the members of such groups in all aspects of social, political and economic life, while preserving and respecting their ethnic, linguistic and cultural characteristics.

CERD A/35/18 (1980)

319. The sixth periodic report of Hungary (CERD/C/66/Add. 9) was considered by the Committee together with the information given by the representative of the reporting State in his introductory statement, who touched upon, particularly, the provisions of the new article of the Criminal Code, which made it a crime to commit an act prohibited by international law with intent to ensure that one racial group would gain or maintain domination over, or systematically repress, another racial group.

320. The Committee expressed appreciation of the report which it considered a valuable effort to maintain and enhance a constructive dialogue between the reporting State and the Committee.

321. Concerning the implementation of article 2 of the Convention, members of the Committee commended the steps taken by the Hungarian Government to protect the interests of ethnic groups and other nationalities living in the country, particularly the Gipsy population which did not form a focus of discontent in Hungary as it did elsewhere. The steps taken to promote and develop Gipsy culture were laudable. Referring to the report, some members of the Committee drew attention to the impressive percentage of Gipsies who had Hungarian as their mother tongue. Regarding the efforts to eliminate the residential segregation of Gipsies, it was asked whether it might be possible to do more, through education, to convince those people still living in the traditional way and in their own ethnic environment to give up their way of life in favour of integration. Such attempts, another member observed, should always be based on persuasion and voluntary acceptance by the people concerned. A member of the Committee enquired how the associations mentioned in paragraph 9 (b) of the report defined the words “collective interests”; what were the political implications and legal significance of those words; and whether the Government was obliged to take such collective interests into account.

322. With reference to article 3 of the Convention, satisfaction was expressed, with the attitude of the Hungarian Government towards the racist régime of South Africa and its constant opposition to racism and apartheid.

323. With regard to the implementation of article 4 of the Convention, reference was made to the new article 175 of the Criminal Code, and an explanation was requested of the phrase “an act prohibited by international law” as used in that article. It was also noted that all the legislation brought to the attention of the Committee in respect of incitement to racial hatred concerned offences involving large numbers of people rather than individual acts of discrimination, and it was asked what legal sanctions could be applied against an organization that had not been legally registered, or to persons constituting such an organization.

324. Turning to article 6 of the Convention, the Committee commended the report for providing information on the legal remedies available in the case of discrimination committed by a public official. It was asked what action could be taken by the victim of an act of discrimination when that act was committed by a private individual and not a public official. Some members of the Committee noted that, according to article 349, paragraph 2, of the Hungarian Civil Code, claims for damages resulting from discrimination by a public official must be submitted within one year, and it was asked,

therefore, whether the Hungarian public was aware of its rights in that respect. The report did not indicate what remedies were available if a public official committing an act of discrimination was not operating within the authority of his office or if the offences were due to irresponsibility or misconduct. Additional information on that matter was requested by the Committee.

325. The Committee was satisfied with measures taken in compliance with article 7 of the Convention. The members of the Committee noted that works by many foreign authors were published in Hungary and that the Hungarian Copyright Act No. III of 1969 provided copyright protection for folklore under article 15 (3). Additional information was requested on any formal agreements that had been concluded by the Hungarian Government with neighbouring States in the field of instruction and education.

326. Replying to questions raised by the members of the Committee concerning the situation of the Gipsy population, the representative of Hungary stated that it was important to realize that it would take time to bring such long-standing conditions up to the level of those enjoyed by other population groups in Hungary. With respect to the question of "collective interests" represented by associations, he explained that such associations could approach the Hungarian authorities, for example, to request help in obtaining better living conditions or in mounting ethnic cultural exhibitions in new areas.

327. With respect to legal remedy against acts of discrimination, he stated that it was not possible, under the Hungarian concept of criminal law, to punish an institution or organizations; only the individual concerned could be considered to be a criminal and thus could be punished. He also explained that associations which were not legally registered could not actually be considered to be associations and thus were not entitled to the rights enjoyed by true associations. The by-laws of associations must also be consistent with the provisions of the Hungarian Constitution.

328. With regard to agreements with neighbouring countries in the field of education, the representative stated, although he was unable to cite specific examples, such agreements did in fact exist.

329. He assured members of the Committee that their comments and questions would be forwarded to the Hungarian Government.

CERD A/37/18 (1982)

238. The seventh periodic report of Hungary (CERD/C/91/Add.5) was considered by the Committee together with the introductory statement of the representative of the reporting State, who reiterated his Government's determination to pursue with the Committee the constructive dialogue which had been established and reaffirmed Hungary's deep commitment to the objectives of the Convention.

239. The Committee expressed appreciation for the report, which testified to the fruitful and encouraging co-operation of the Hungarian Government with the Committee, provided appropriate replies to questions raised by members during the consideration of previous reports and complied with the Committee's guidelines. It was noted with satisfaction that the Convention formed part of the Hungarian internal law and that detailed information was given on the demographic composition of the population. However, one member expressed concern at the substantial decrease in the number of national minorities in the country, and another member noted that the Slovenian and Serbian mentioned in the third report of Hungary were no longer included in the seventh periodic report. An explanation was requested as to why the criterion of mother tongue had been chosen to determine the category to which the various ethnic groups belonged and how the concept of mother tongue had been defined for the purposes of the 1980 census. It was also observed that article 61 of Act I of 1972, which prohibited discrimination only on grounds of sex, religion or nationality, placed a limitation on the definition of racial discrimination as contained in article 1, paragraph 1, of the Convention.

240. With regard to the implementation of article 2 of the Convention, questions were asked concerning the functions of the Presidium, the Council of Ministers and the Office of the Procurator-General of the Republic and the method of ensuring respect for the legislation in force. It was asked in particular, by whom and according to what procedure the type of initiative mentioned in article 2, paragraph 1 (c) of the Convention could be taken; how a conflict arising, for instance, between the Parliament and the Presidium was resolved and what was the procedure followed; whether there was some form of legal control of constitutionality and whether there was any legal control over administrative procedure. With regard to the gypsy population in Hungary, a member of the Committee observed that gypsy housing was concentrated in certain rural localities of the country. He wondered whether that practice had been abolished and whether they now lived side by side with other Hungarians. Regarding article 157 of the Penal Code, some members pointed out that the Hungarian Government's interpretation of the phrase "an act prohibited by international law", as referring to the Convention, was not in adequate conformity with article 2, paragraph 1 (d) of the Convention and that the qualification regarding intent to ensure that a racial group would gain or maintain domination over another removed that article of the Penal Code, from the purview of the Convention.

241. Several members noted that most of the provisions of article 4 of the Convention were given effect to by articles 148, 155, 156 and 157 of the Penal Code. Some members observed, however, that article 148 provided inadequate coverage of article 4 (a), since it declared punishable an act liable to incite others to hatred, which was only one of many possible motives for racial discrimination, and did not meet the requirement concerning dissemination of ideas based on racial superiority or hatred;

while in article 156 of the Penal Code the reference to “serious bodily or mental injury” placed a limitation on article 4 (a), which punished all acts of violence or incitement to such acts. It was also pointed out that there was no law corresponding to the requirement in article 4 (a) in respect of assistance to racist activities, while Law-Decrees No. 35 of 1970 and No. 10 of 1979 covered only organizations promoting racial discrimination and did not deal with other propaganda activities.

242. In connection with article 5 of the Convention, the Committee noted that most of the rights enumerated therein had been analysed in depth and were based on the principle of legal equality. An explanation was requested as to what was meant in article 54 of the Constitution by the expression “the interests of a socialist society”; what the situation was with regard to the right to freedom of movement and residence within the State, the right to leave any country, including one’s own, and return to one’s country, the right to nationality, the right to form and join trade unions and the right of association. Referring to article 67 of the Constitution, one member asked whether the qualifications for the granting of asylum in Hungary to foreigners were exhaustive or illustrative.

243. With regard to article 6 of the Convention, it was observed that any person who was a victim of racial discrimination could initiate legal action before the competent judiciary bodies in order to claim damage and that in civil matters judges had considerable power of adjudication. An explanation was requested as to whether in the event the Public Ministry refused to institute criminal proceedings for any reason whatever, the victim could himself bring a criminal action and whether, when the guilty person was a State official, the proceedings were instituted against the official or against the State. It was also asked if the term “social interest” meant an economic interest or also covered a moral interest, such as respect for human life. Referring to article 73 (3) of the Civil Code, one member requested some examples of the kind of rights that might be considered inoperative because of the factor of consent.

244. With reference to article 7 of the Convention, the Committee commended Hungary for its imaginative and progressive approach to education aimed at promoting the struggle against racial discrimination, and noted with interest the statement that the Hungarian Government considered the cultivation of national cultures to be inseparable from the cultures of the respective mother countries of the nationalities. Some members wished to have more details about education and school curricula in order to understand how they ensured respect for human rights and the promotion of tolerance and friendship among nations as well as how young persons were educated to combat prejudices which led to racial discrimination.

245. Replying to questions raised by members of the Committee, the representative of Hungary stated that information on the demographic composition had been based on 1980 census data and that the right to use one’s mother tongue was guaranteed by article 61 of the Constitution. The Sloven and Serbian groups had not been mentioned in the demographic information because their numbers were so small; however, figures could be provided to the Committee in the next report. Concerning the gypsy population, he explained that it would be wrong to say that the gypsies were concentrated in certain areas since the district councils were responsible for providing adequate housing for them. As a whole, the policy of the Government was aimed at integration of the gypsies into Hungarian society. As regards the functions of the Presidential Council and Parliament, the representative stated that the Council was elected by Parliament and acted between sessions of Parliament. It was

therefore part of the supreme body and no conflict existed between the legislative and executive branches. With respect to the question of the judicial system in Hungary, he explained that the power of the administrative organs was limited to applying the law, which was enacted by Parliament and enforced by independent courts. Touching upon the phrase in the report “an act prohibited by international law”, he said that inclusion of article 157 in the new Penal Code had been a direct result of Hungary’s accession to the Convention and that the Hungarian legislation was in full conformity with both the spirit and letter of the Convention. He also could not agree with the opinion that article 157 of the Penal Code failed to cover adequately the provisions of article 4 of the Convention.

246. With reference to questions asked under article 5 of the Convention, the representative of Hungary was of the opinion that matters as the possibility of traveling freely, choosing one’s residence, leaving the country, the right to a nationality, and trade union matters, though referred to in the Convention, were of a more general nature, and that those problems did not exist in his country. He also explained that the interest of a socialist society was to ensure the functioning of the socialist State.

247. Referring to questions regarding the implementation of article 7 of the Convention, the representative said that matters concerning racism, apartheid, and the fight for self-determination were an integral part of the teaching of contemporary history, especially at the secondary level. In addition, the National Solidarity Committee conducted frequent seminars on those subjects.

248. He finally assured the Committee that its comments would be taken into account and the questions duly answered in the next report.

CERD A/40/18 (1985)

52. The eighth periodic report of Hungary (CERD/C/118/Add. 2) was considered by the Committee at its 700th meeting, held on 5 March 1985 (CERD/C/SR.700).

53. The report was introduced by the representative of Hungary who reaffirmed his Government's commitment to the implementation of the Convention and to a continued and constructive dialogue with the Committee. He said that human rights in his country were guaranteed by economic and social legislation. Hungary participated actively in the struggle against racial discrimination at the international level and his Government stressed the need for an increase in the number of States parties to the convention.

54. The Committee expressed appreciation for the substantive report submitted by Hungary, which closely followed the Committee's general guidelines (CERD/C/70/Rev.1) and contained appropriate clarification of issues raised by the Committee during the consideration of Hungary's seventh periodic report. Several members, however, observed that there were still some gaps concerning the demographic data and expressed the hope that the Government would include in its next report a statistical breakdown of the ethnic populations living in Hungary. Clarification was requested as to whether the phrase "administrative law" in the report referred to labour legislation and further information was requested regarding the administrative sanctions involved within that context.

55. With regard to article 2, paragraph 2, of the Convention, members of the Committee observed that very few Serbs and Slovans seemed to have distinct identity for the purpose of a census. Information was requested concerning the reason for the downward trend in the number of Serbs and Slovans from 1.5 per cent to 0.1 per cent of the population. Members asked whether the decrease in the size of minority nationalities was due to a process of assimilation and loss of their ethnic culture. It was pointed out that Hungary had dealt with the question of national minorities in an interesting and relevant way through the establishment of the federations of nationalities. Several members asked for clarification as to whether the federations of nationalities were independent or government-organized. Further information was requested regarding the actions of those federations to preserve the culture of the various nationalities. It was also asked why there was no corresponding federation to cover Serbo-Croatian and Slovenian minorities. Specific information was requested regarding the number of schools for minorities, the mass media programmes intended for them and the nationalities which received instruction in bilingual educational institutions. Members also wished to know how the Government viewed the possibility of cultural survival of the various ethnic groups in the long run.

56. Other questions raised by members within the scope of article 2, paragraph 2, of the Convention concerned measures taken by the Government to improve the socio-economic situation of the Gypsy population and to integrate them more fully. In that connection, one member pointed out that there appeared to be a discrepancy between the statement in paragraph 24 of the report to the effect that there was no need to adopt special and concrete measures with regard to article 2, paragraph 2, of the Convention, since the legal system in Hungary guaranteed nationals and non-nationals alike the full and equal enjoyment of human rights and fundamental freedoms, and the prevailing situation of

Gypsies, particularly in some rural areas where they were marginalized from the dominant ethnic group. Additional information was requested about their rate of literacy, level of education, housing and employment, infant mortality and life expectancy.

57. In relation to article 3 of the Convention, the Committee took note of Hungary's excellent record of compliance with the principled policy of maintaining no diplomatic, economic or other relations with the racist régime of South Africa.

58. Referring to the implementation of article 4 of the Convention, the majority of members noted that some lacunae remained in the Hungarian legislation designed to implement that article. The concept of racial discrimination in article 61, paragraph 1, of the Constitution was not as broad as in article 1, paragraph 1, of the Convention. Furthermore, the provisions of the Penal Code, particularly articles 156 and 157, seemed to be too restrictive when compared to article 4 of the Convention. In that regard, Hungarian legislation did not seem to cover acts violence which did not cause serious bodily or mental injury, within the meaning of article 4 (a) of the Convention. One member pointed out that the restrictive terms of articles 156 and 157 of the Hungarian Penal Code could be a determining factor in that no cases of racial discrimination were being brought before Hungarian courts. Another member, noting that intention to incite to hatred, which was a subjective element, was punishable by Hungarian law, requested additional information as to how an intention to incite to hatred was objectively determined. He also observed that, according to Hungarian law, only natural persons constituting an organization, and not the organization itself, could be held responsible for crimes or offences, including acts of racial discrimination. Still another member remarked that the Committee should accept Hungary's own assessment that its legislation was, in its own way, consistent with article 4 of the Convention. Most members of the Committee, however, expressed the hope that the Government of Hungary would take into account the views of the Committee and try to bring its legislation into closer conformity with article 4 of the Convention.

59. In relation to article 5 of the Convention, further information was requested with respect to freedom of movement of the various nationalities and it was recalled that questions raised in that context during the consideration of Hungary's previous report remained unanswered. Members of the Committee also inquired about the right of Hungarian citizens to leave Hungary and to return to their country. In that connection, reference was made to the severe punishment given to Hungarians who stayed abroad beyond a period of one to three months and which had led many Hungarian citizens to apply for political asylum rather than return. Concerning the right of association, it was asked why the legislation applied solely to workers' organizations and clarification was also sought regarding article 212 of the Penal Code which seemed to imply that associations which had not applied for registration with the Government were considered illegal.

60. The Committee noted that the provisions of article 6 of the Convention were being implemented within the scope of articles 75, 76 and 84 of the Civil Code, as well as of the functions and powers of the Procurator-General, which enabled him to prosecute acts of racial discrimination under laws established under the Constitution and the Civil and Penal Code. However, members of the Committee wished to know how a victim of racial discrimination, particularly if he was a Gypsy, could seek reparation and asked to be supplied with concrete examples of how Hungarian laws operated in that regard. One member asked whether there were any special measures to deal with

possible abuse of power by civil servants

61. Concerning article 7 of the Convention, members of the Committee congratulated the Government of Hungary for the action it had taken to implement the provisions of that article and to foster friendship and understanding among different ethnic groups and nations. Members wished to know, however, what measures were being taken to acquaint the general public with the purposes and principles of the Convention, as well as how information on the Convention and on the struggle against racial discrimination were taught in the universities.

62. Replying to questions raised by members of the Committee, the representative of Hungary said that “administrative law” in the Hungarian legal system did not cover labour law. Administrative law dealt with offences, including acts of racial discrimination, which were deemed to be less grave than those falling under the Penal Code. He pointed out that information on the demographic composition of Hungary had been provided by his Government in a previous report.

63. Regarding national minorities he assured the Committee that they were in no way disadvantaged compared to the Hungarian population as a whole. The decline in the numbers of persons who stated that their mother tongue was not Hungarian did not indicate that there was a problem of ethnic cultural survival in Hungary. No pressure was brought to bear on nationalities to choose the Hungarian language. Bilingual instruction at educational institutions was designed to encourage and preserve ethnic cultures, and significant results had been achieved at all levels. He said that the federations of nationalities were not government-organized but were supported by the State. Statistical data on those organizations would be supplied in the next report as well as detailed replies concerning nationalities.

64. With respect to questions concerning the Gypsy population, he indicated that the Hungarian Government viewed the improvement of the living conditions of Gypsies and their integration into society as a very important long-term objective to be achieved through persuasion and education. There was no segregation of the Gypsy population, and if in certain areas Gypsies chose to live apart, that reflected a wish to preserve their cultural identity in a traditional environment.

65. As to questions raised in connection with article 4 of the Convention, he informed the Committee that the Convention formed an integral part of his country’s legal system in that it had been promulgated by Decree-Law No. 8 of 1969 of the Presidential Council and had been widely disseminated in the official gazette. In addition, the Convention had been recognized in the 1978 amendment to article 157 of the Penal Code, which referred to racial discrimination as “an act prohibited by international law”. His Government was prepared to co-operate with the Committee on matters of interpretation.

66. In reply to questions posed with regard to the implementation of article 5 of the Convention, he stated that there were no problems of freedom of movement in Hungary. As to limitations on lengths of stay abroad imposed on Hungarian citizens, he said that every country had regulations concerning the validity of passports. Visas were issued for a period of 30 days, but any Hungarian citizen was entitled to request an extension from his local embassy.

67. Turning to questions raised in connection with article 6 of the Convention, he explained that victims of racial discrimination had three separate channels of recourse: the courts, the Procurator's Office or the administrative authorities. He confirmed the interpretation given by a member of the Committee that it was a basic principle of Hungarian law that only natural persons could be held responsible for crimes or offences, including acts of racial discrimination. Further details about those aspects would be reflected in the next report of Hungary.

68. Finally he assured the Committee that the comments made during the consideration of Hungary's eighth periodic report would be taken into account when the next report was prepared.

CERD A/42/18 (1987)

726. The ninth periodic report of Hungary (CERD/C/149/Add.9) was considered by the Committee at its 795th meeting on 13 March 1987 (CERD/C/SR.795).

727. The report was introduced by the representative of Hungary, who referred to relevant parts thereof and stressed that enjoyment of the rights of national and ethnic minorities was of major importance in preserving international peace and security and ensuring stability at the national level. His Government was in favour of strengthening contacts between national minorities and their country of origin and was convinced that an appropriate policy towards them was a basic requirement for the development of Hungarian society.

728. Members of the Committee commended the report submitted by Hungary. It contained interesting information and showed progress in the implementation of the Convention. The report had been prepared in accordance with the Committee's guidelines (CERD/C/70/Rev.1) and contained replies to a number of questions raised during consideration of the previous report.

729. Members sought clarification on the status of the Constitutional Council and particularly on the measures that appeared to be outside the jurisdiction of the Council. They wished to know whether the Council was a judicial or an administrative body, what the scope of its mandate was, and how it operated.

730. In relation to article 2, paragraph 1 of the Convention, it was noted that article 157 of the Penal Code, in defining an act prohibited by international law, did not specify acts of commission but rather established a general framework of pertinent facts. In that context, it was asked whether it would not be wiser for the reporting State to include within its body of law a stricter definition that would cover all cases that might arise.

731. With regard to article 2, paragraph 2, taken in conjunction with article 5 of the Convention, members of the Committee wished to receive a more accurate demographic breakdown of the country's population, since there seemed to be differences in the size of the national and ethnic minorities according to the various sources given in the report. Additional information was also requested concerning the size of each of the small groups of Bulgarians, Poles and Greeks living in Hungary. Members welcomed the statement that all minority nationalities were guaranteed the right to use their mother tongue, the right to be taught in it, and the right to pursue and develop their own culture. It was pointed out that educational planning with regard to the minorities was based on statistics provided by the federations of nationalities and not on those derived from the national census. Such a remarkable approach could serve as a useful model for other States parties, since members of minorities were often fearful or reluctant to indicate their ethnic origin when censuses were conducted.

732. Members of the Committee wished to know whether the Constitution contained any provisions regarding the political representation of minorities in parliament and the Government and, if not, whether any members of minority nationalities sat in parliament or served in the higher levels of the

administration or the judiciary. It was asked how the rights of minorities were protected in the area of employment and whether any special procedure existed to deal with cases of discrimination relating to that area.

733. Members also requested additional information on the federations of nationalities, asking in particular how independent they were and what the term “independent” meant, how they were financed, what their terms of reference were, whether they were self-governing and whether the nationalities concerned had their own universities. Clarification was requested regarding the term “national idioms”.

734. With regard to the Gypsy population, members welcomed the long-term measures the Government had devised to bring about general improvements in their life. It was noted, however, that the rate of employment among Gypsies was still lower than among the rest of the population and it was asked whether the Government had a timetable for bridging that gap and for improving assistance to those sections of the Gypsy community that still lived in the traditional way. It was also asked what methods had been used to obtain reliable data on the Gypsy population in the large cities, where there was a high degree of integration with the population.

735. In relation to article 3 of the Convention, members stressed the important contribution that Hungary was making to isolating the South African régime internationally. Additional information was requested on the support provided by Hungary to the national liberation movements, in particular the African National Congress of South Africa (ANC) and the South West Africa People’s Organization (SWAPO).

736. Concerning the implementation of article 6, reference was made to the legal provisions on the crime of genocide and it was asked whether criminal cases were heard only by professional magistrates or whether there was provision for trials by jury.

737. With regard to the implementation of article 7, members of the Committee wished to receive additional information about the way in which the provisions of that article were being made known to the public at large, courses that might be given in schools and universities covering human rights issues, and training courses for specific target groups, such as law enforcement officials.

738. Replying to questions raised and comments made by members of the Committee, the representative of Hungary said that the Constitutional Council was a new organ created in June 1985. It had 15 members, 9 of whom were elected by the General Assembly, the others being eminent jurists. They served for five years and issued general guidelines and rulings regarding some elements of Hungarian legislation. In Hungary, the administration of justice was a law-enforcing activity. The courts had no power to create law. The directives and decisions of principle of the Supreme Court were binding on lower courts, but the Supreme Court had no power to interfere with the jurisdiction of local courts. The Constitutional Council was a body responsible to parliament and played a role in supervising statutes, directives and decisions of the Supreme Court and guidelines issued by the Council of Ministers. Its competence was similar to that of the permanent parliamentary committees. If it found a text to be unconstitutional, it could suspend the implementation of the text or request the issuing authority to revise it. The Council also advised Parliament on questions of

constitutionality. Proceedings before it could be initiated by a whole range of bodies, from parliament to provincial councils. Parliament had the power to dismiss members of the Constitutional Council if they deviated from their duties.

739. The reason for the discrepancies in the figures for national minorities was that the 1980 census had not been nation-wide, some parts of the country having been left out. Moreover, some members of minority nationalities had been reluctant to declare their nationality in the census. The further 95,800 citizens that had been found to speak one of the national idioms were persons who had stated that they spoke the idiom concerned in addition to Hungarian. The federations of nationalities were organized on an independent basis by the national groups themselves; however, they received material assistance from the Government, and some of their officials were paid by it.

740. National minorities had the same electoral rights as all citizens. He had no statistical data on the number of national minority members sitting in parliament, but the fact that the General Secretary of the Hungarian Socialist Workers' Party had himself been born in Fiume in 1912 indicated that no difficulties were being experienced. Specific national minorities were represented in parliament, of which the secretaries of the nationality councils were also members. Efforts were being made to strengthen contacts between national minorities and their countries of origin. A recent conference of representatives of Germans who had left Hungary after the Second World War and of the German minority in Hungary had concluded that a national minority policy could never be separated from general government policy. The denial of rights to a particular national minority or religious group usually meant that even the rights of the majority were not respected.

741. The Government had a programme of specific action to improve the lot of the Gypsies, although it was not reflected in the report. Much had already been done to assist them economically, but a greater effort must be made, especially with regard to education. There was a difference between the Gypsies living in rural areas and those living in Budapest. The rural Gypsies formed more closed communities and their standard of living was generally lower. Higher priority was being given to improving their situation. In Budapest, a Gypsy council was endeavouring to preserve the cultural heritage of the Gypsy community.

742. There was no specific employment problem among the national minorities, but there was a problem with regard to the Gypsies, whose level of employment was lower than that of the population as a whole. An effort was being made to change that situation by improving the education of Gypsies.

743. The text of the Convention on the Elimination of All Forms of Racial Discrimination was printed and distributed in Hungary, and was studied at universities and in secondary schools.

744. Finally, the representative of Hungary assured the Committee that the questions put by members would help his Government to identify areas where improvements could be made. They would be answered in the next periodic report and would be taken into account in the law-making process.

CERD A/45/18 (1990)

215. The tenth periodic report of Hungary (CERD/C/172/Add.7) was considered by the Committee at its 876th meeting, held on 15 August 1990 (CERD/C/SR.876).

216. The report was introduced by the representative of the State party, who emphasized the numerous recent changes in his country which bore witness to its firm commitment to democracy. In accordance with the Constitution, as amended by an Act adopted in October 1989, Hungary now accepted the generally admitted rules of international law and the resultant obligations aimed, in particular, at ensuring full respect for, and protection of, the fundamental rights of the individual. Many constitutional provisions relating to the presumption of innocence, available remedies, and the conditions and duration of police custody and pre-trial detention had accordingly been amended. Similarly, the provisions of the Penal Code relating to crimes against the State and provisions of the law on criminal procedure relating to administrative detention and the jurisdiction of the military courts had undergone far-reaching revision. New laws concerning conscientious objectors, freedom of movement, and the establishment of a Constitutional Court and a parliamentary mediator had also been enacted.

217. The representative of the State party said that, in March 1989, Hungary had acceded to the 1951 Convention relating to the Status of Refugees. Although it had already received refugees of various origins, his country had never before had to confront an influx of refugees comparable to that of the Romanians, mostly of Hungarian origin, which had taken place since 1987 and especially since March 1990. As early as 1988, an inter-ministerial commission and a special fund had been established to assist them. Reception centres had been set up, and residence permits and the necessary work permits were issued very promptly. In addition, the refugees received subsidies as soon as they arrived. Hungary's policy was to receive all persons whose fundamental rights were flouted and who applied to it for asylum.

218. On the question of the minorities to whom the Constitution guaranteed equal rights and the use and teaching of their mother tongue, the representative of the State party said that a new law was under preparation aimed, in particular, at preserving their identity and culture and enabling them to exercise all their rights so as to play a full part in the life of the nation. In addition, at the international level, Hungary supported the rapid adoption of adequate mechanisms and rules relating to the protection of national, religious and linguistic minorities.

219. Members of the Committee took note with satisfaction of the report submitted by the Hungarian Government and thanked the representative of the State party for his introductory statement. They also welcomed the recent positive changes in Hungary and the declaration made by the Government in accordance with article 14, paragraph 1, of the Convention. Further information was in general requested on Hungary's demographic composition, in particular with regard to ethnic groups, and on the new legal order that had come into being as a result of the recent changes. In that connection, explanations were sought on the constitutional provisions relating to the regulations governing the nationalities and the criteria for distinguishing between nationalities and ethnic groups, and on the provisions of the Penal Code concerning crimes against the State. It was also asked whether the

wording of the report had been the subject of prior consultation with the Federation of Nationalities and whether an effort was being made to give any publicity to the Committee's consideration of the report. Clarification was requested concerning the very substantial influx of refugees of Hungarian origin and on the position expressed by the Government concerning the free exercise of the individual and collective rights of the Hungarian national minorities living in neighbouring countries. In that connection, it was asked whether the Government had envisaged concluding an agreement with the neighbouring countries concerned or, if it had not, whether it envisaged submitting that question to the Committee under article 11 of the Convention.

220. With regard to article 2 of the Convention, members inquired whether any legislative measures for the benefit of the minorities and ethnic groups - in particular, the granting of special rights - were envisaged; whether the minorities were participating in the current changes in Hungarian society; in what way the plurality of languages and modes of life and the cultural identity of the minorities were recognized and preserved; and what measures had been adopted in the wake of the 1988 Congress of democratic associations of Germans, Southern Slavs, Slovaks and Romanians mentioned in paragraph 25 of the report. It was asked whether Hungary considered the principle of territorial integrity to be applicable to all States, and whether the right to self-determination is recognized in the Hungarian Constitution.

221. In connection with the implementation of article 3 of the Convention, members expressed concern at the recent decision by the Hungarian Government to receive the Minister for Foreign Affairs of South Africa and to restore economic and trade relations with that country.

222. With regard to articles 4 and 6 of the Convention, members expressed surprise at the fact that during the period under consideration, despite the size of the minorities and ethnic groups in Hungary and the considerable influx of refugees, no legal or administrative decision had been taken in matters concerning racial discrimination. The Jews, Gypsies and Vietnamese workers had been used as scapegoats in neighbouring States and it would be surprising if there had not been similar tensions in Hungary. It was asked, in particular, whether the Convention was enforceable in Hungary; whether effective remedies were available to persons who considered themselves to be victims of racial discrimination; whether the ordinary people, and in particular the members of the Gypsy minority, were kept informed of their rights in that respect; whether the Penal Code declared punishable the offences referred to in article 4, paragraph 1, of the Convention; and whether the office of mediator that had just been established would have a role to play in efforts to combat racial discrimination.

223. In connection with article 5 of the Convention, members requested fuller information on representative of the minorities and ethnic groups in the Government, Parliament, the higher echelons of the civil service and the new parties. It was also asked whether they were authorized by law to form their own parties; in what national languages education could be provided under Act No. 1 of 1985; and whether the members of the minorities and ethnic groups encountered particular problems in obtaining employment. Clarification was further sought concerning the economic, social and political situation of the Gypsy minority in Hungary and any discrimination to which that minority might be subjected.

224. In reply to the various questions asked, the representative of the State party emphasized that

the 500,000 to 700,000 Gypsies in Hungary were now recognized as a national minority on the same basis as the other minorities. At their congresses in 1988, the associations of the various minorities had approved the Government's new policy. Nevertheless, following the new economic policy, the public authorities had stopped paying automatic subsidies to the various minority federations. In order to assist those federations which could not survive without governmental assistance, a State secretariat for the minorities had been established. Furthermore, a law on the national minorities had been drafted after consultation with representatives of those minorities.

225. In connection with article 3 of the Convention, the representative of the State party said that the new Hungarian Government had not modified its condemnation of apartheid. However, in order to conduct an independent and peace-serving foreign policy and taking account of the interests of all the countries of southern Africa, contacts had been established, notably at the level of Ministers for Foreign Affairs. Genuine relations with the South African Government could not, however, be envisaged before the abolition of apartheid. In addition, he drew attention to the existence in South Africa of a substantial Hungarian community numbering 20,000, with whom the Government wished to remain in contact.

226. In connection with articles 4 and 6 of the Convention, the representative of the State party said he wished to make it clear that the Government was sparing no effort in basing its action, in particular, on the existing legislative framework and in giving priority to the moral and civic education of the population in order to ensure that racial tension similar to that in certain neighbouring countries did not occur in Hungary. The establishment of posts of mediators specializing in the defence of minority rights was currently under study.

227. Replying to the questions raised in connection with article 5 of the Convention, the representative of the State party said that bilingualism was common in several areas, since many people knew Hungarian better than their own national language. The protection of the minority cultures was all the more urgent since the minorities were scattered all over the country. Thus, it was sometimes difficult, through lack of teachers, to implement in certain small towns the provisions of Act No. 1 of 1985 relating to education in the various national languages used in Hungary. In certain cases, neighbouring countries, such as Yugoslavia and the Federal Republic of Germany, had been able to make a valuable contribution in that respect. In the regions containing sizeable minorities, the teaching of the languages of those minorities was compulsory in schools attended by the Hungarian majority. On the question of parliamentary representation of the minorities, it should be noted that at present the minorities were not really represented in Parliament, since they had only 18 deputies - including two Gypsies - out of a total of 368. Draft legislation on a two-chamber system was thus under consideration in order to enable the minorities, through the establishment of a lower chamber, to exercise their rights more effectively.

228. Replying to the specific questions on the Gypsies, the representative of the State party described the differentiation that operated within Gypsy society. Thus, 25 per cent of that population had attained a level of development comparable to the average level of the Hungarian population, while for half of them the level of development corresponded to that of the least advanced strata of Hungarian society, the third segment being composed of totally marginalized inhabitants. The Government had set itself the target of integrating the Gypsies as fully as possible within the rest of

society and was trying to base its action on Gypsy children, i.e., the age group most susceptible to adaptation through school enrollment.

229. In conclusion, the representative of the State party reminded members that his country was currently going through a transitional period and expressed regret that he had been unable to reply as precisely as he would have wished to some of the questions asked. He nevertheless assured the Committee that Hungary's next periodic report would paint a full picture of the situation in the light of the comments made by members.

CERD A/51/18

106. The Committee considered the eleventh, twelfth and thirteenth period reports of Hungary (CERD/C/263/Add.6) at its 1143rd and 1144th meetings (see CERD/C/SR.1143-1144), held on 6 and 7 March 1996 and, at its 1150th meeting, held on 12 March 1996, adopted the following concluding observations.

Introduction

107. The Committee thanks the State Party for the submission of its periodic report and welcomes the resumed dialogue with the Government of Hungary. The Committee appreciates the frankness and the comprehensiveness of the report, which contains detailed information on the implementation of the Convention. It regrets, however, that the report was overdue.

Factors and difficulties impeding the implementation of the Convention

108. It is recognized that the active policy of tolerance and openness towards minorities is still relatively new and is to be implemented in a context of profound political, social and economic change. It is further recognized that some social attitudes still prevalent and partly tolerated in the country are not conducive to the full implementation of the Convention.

Positive aspects

109. The fact that Hungary has made the declaration under article 14 of the Convention and has withdrawn its reservation previously made in relation to article 22 of the Convention is welcomed.

110. The many recent developments in Hungary that represent substantial steps in the transition towards democracy and pluralism are welcomed. The provisions of the new Constitution, the firm legal basis it provides for a democratic order, the thorough legal reform and the establishment of democratic institutions, some of which are particularly progressive, are noted with much appreciation.

111. The State Party is commended for its new policy regarding minorities, based on the principles of preservation of their self-identity, special preference treatment and cultural autonomy.

112. The large and conscientiously prepared consultation to reach a political consensus on the question of minorities, which led to the adoption on 7 July 1993 of the Act on the Rights of National and Ethnic Minorities, is welcomed. The Act permits a review of the former process for assimilating national and ethnic minorities so that they may regain their linguistic and cultural identity.

113. The creation in 1990 of the Office for National and Ethnic Minorities as an independent administrative body and of the post of Ombudsman (Parliamentary Commissioner) for National and Ethnic Minority Rights, effective since mid-1995, is also welcomed.

114. The signing of agreements with neighbouring countries in connection with minority rights

issues, in line with paragraph 7 of the Preamble to the Convention, is another subject of satisfaction.

115. The development of activities carried out in relation to article 7 of the Convention, including the wide diffusion of the text of the Convention and the encouragement of public debate on its contents, is also noted with satisfaction.

Principal subjects of concern

116. Grave concern is expressed at the persistence of expressions of racial hatred and acts of violence, particularly those by neo-Nazi skinheads and others, towards persons belonging to minorities, especially Gypsies, Jews and people of African or Asian origin. Alarm is expressed that the Government has not been sufficiently active in effectively countering incidents of racial violence against members of minority groups. In this regard, concern is expressed at information from various credible sources indicating that the number of charges and convictions, including against neo-Nazi skinheads and others, is low relative to the number of abuses reported.

117. Alarm is also expressed at apparent harassment and use of excessive force by the police against Gypsies and foreigners.

118. Concern is expressed that so far the State Party has not fully implemented the provisions contained in article 4 (a) and (b) of the Convention, as partly recognized in the report, and attention is drawn to the Committee's General Recommendation XV.

119. The persistent marginalization of the large Gypsy population, in spite of continuing efforts by the Government, is a matter of serious concern. It is noted that the de facto discrimination Gypsies face in the enjoyment of their economic, social and cultural rights increases their vulnerability in a context of economic crisis. Concern is expressed that three quarters of Gypsies are unemployed, with almost no prospect of entering the labour market.

120. Concern is expressed that, according to the Act of 1993, for an ethnic group to be recognized as a minority, it must have lived on Hungarian soil for at least a century; this seems to be very restrictive.

121. The absence of demographic data on the minorities in different districts of the country makes any evaluation of activities intended for their benefit difficult. Equally, the lack of data on the representation of minorities in the local authorities and the lack of recent data on the situation of minorities in the fields of education, culture, the media and employment is regretted.

122. Concern is also expressed about the lack of clarity concerning the status of the Convention in Hungarian law.

Suggestions and recommendations

123. The Committee urges the Government of Hungary to take more active steps to prevent and counter attitudes and acts of racial violence against individuals. It recommends extreme vigilance

towards the neo-Nazi skinheads and others and a stronger commitment to ensuring that there is no element of racism in law enforcement.

124. The Committee also expects the State Party to clarify the relationship between the Convention and the Hungarian Constitution and laws.

125. The Committee recommends that the State Party comply fully with its obligations under article 4 of the Convention and take all necessary steps to amend the Penal Code in that respect. Due account should be taken of the Committee's General Recommendation XV.

126. The Committee recommends increased attention to the protection of the Gypsies' civil, political, economic, social and cultural rights. The efforts to implement measures of affirmative action in that respect should be strengthened. Adequate indicators and other means of monitoring the economic and social conditions of this group should be developed. The Committee requests the State Party to provide detailed information on such measures in its next report.

127. The Committee recommends that the State Party provide, in its next report, statistical data on the minorities in different districts, on their representation in the local authorities, as well as recent data on their situation in the fields of education, culture, the media and employment.

128. The Committee recommends that the next report contain detailed information regarding allegations and prosecutions in the case of acts of racial discrimination.

129. The Committee suggests that the Government continue its action taken to publicize the provisions of the Convention. The public should also be better informed of the remedy available under article 14 of the Convention. In addition, the State Party should ensure the wide dissemination of its report and of the concluding observations of the Committee.

130. The Committee recommends that the State Party ratify the amendments to article 8, paragraph 6, of the Convention, adopted at the 14th meeting of States Parties.

131. The Committee recommends that the State Party's next periodic report be an updating report and address all the concerns expressed by the Committee.

CERD A/57/18 (2002)

367. The Committee considered the fourteenth, fifteenth, sixteenth and seventeenth periodic reports of Hungary (CERD/C/431/Add.1), due on 4 January 1996, 1998, 2000 and 2002, respectively, submitted in one document, at its 1541st and 1542nd meetings (CERD/C/SR.1541 and 1542), held on 15 and 16 August 2002. At its 1551st meeting (CERD/C/SR.1551) held on 22 August 2002, it adopted the following concluding observations.

A. Introduction

368. The Committee welcomes with satisfaction the consolidated report of Hungary, as well as the additional oral and written information provided by the State party. The Committee expresses its appreciation for the attendance of a high-ranking delegation, including members of minorities, and for the constructive dialogue which the Committee was able to have with the State party.

B. Positive aspects

369. The Committee welcomes the commitment to human rights manifested by Hungary through the adoption of a series of legal provisions promoting and protecting human rights, the establishment of relevant institutions and the implementation of pertinent programmes in this field.

370. The Committee reiterates, in particular, its satisfaction at the promulgation and implementation of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, which recognizes 13 minorities and provides them with a degree of cultural autonomy, as well as a wide range of educational and linguistic rights, and sets up a system of minority self-governments.

371. The Committee also welcomes the introduction of new provisions into the Criminal Code through Act XVII of 1996, in particular article 174/B penalizing violence against members of national, ethnic or racial minorities and religious groups. The Committee notes the positive elements incorporated in Law Decree No. 11 of 1997 modernizing certain provisions of the Rules on the Enforcement of Punishment, with a view to prohibiting discrimination among convicted persons and to ensuring the basic rights of foreign convicted persons, and in Act CX of 1999 amending the Code of Civil Procedure so as to reinforce the principle that no one shall be discriminated against because of lack of knowledge of the Hungarian language.

372. The Committee further welcomes the positive elements incorporated in section 93 of Act LXIX of 1993 on the Law on Minor Offences dealing with discrimination against employees; in Act XVI of 2001 on the amendment of the Labour Code defining, in particular, "indirect discrimination" and affirming the principle of affirmative action; in Act I of 1996 on Radio and Television Broadcasting, aiming at preventing hate speech and discrimination on racial, national and ethnic grounds; as well as in Act CXXXIX of 1997 on Asylum, as amended, abrogating geographical restrictions concerning asylum-seekers.

373. The Committee commends the activities of the Parliamentary Commissioner for National and Ethnic Minority Rights and of the Parliamentary Commissioner for Civil Rights and takes note with appreciation of the recent establishment and activities of many other human rights institutions and administrative bodies, in particular for promoting the rights and interests of Roma.

C. Concerns and recommendations

374. While noting the above efforts, the Committee expresses concern at persisting intolerance and discrimination, especially in relation to the Roma minority, as well as at xenophobic manifestations against immigrants, refugees and asylum-seekers.

375. Noting that the Government of Hungary is working on a comprehensive anti-discrimination law, the Committee encourages the State party to complete its efforts as soon as possible, taking into account the United Nations Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination as well as the Committee's general recommendations, in particular general recommendation XXVII concerning discrimination against Roma.

376. Further to decision No. 12/1999 (V.21) of the Hungarian Constitutional Court which annulled part of section 269 of the Criminal Code punishing incitement to hatred, the State party committed itself to enacting the necessary provisions to prohibit hate speech. The Committee expresses concern that the existing legislation does not cover all aspects of article 4 of the Convention. The Committee recalls its general recommendations VII and XV which stress, inter alia, the mandatory character of this provision and recommends the adoption of further amendments to the Hungarian Criminal Code to encompass all those aspects, including the prohibition of organizations and activities mentioned in article 4 (b) of the Convention.

377. Furthermore, the Committee requests that the next periodic report provide specific information on the application by the national courts of article 174/B of the Criminal Code and of all other relevant provisions to give effect to article 4 of the Convention. The Committee also recommends that the State party pursue and extend training programmes for judges and prosecutors aiming at sensitizing them to discrimination issues.

378. The Committee is concerned about the number of allegations of ill-treatment and discrimination against the Roma and non-citizens by law enforcement officials, especially the police. The Committee notes that the "Medium-Term Package of Measures to Improve the Living Conditions and Social Position of the Roma Population", as revised, contains a section on police behaviour in connection with members of the Roma minority. The Committee is aware, however, that the above practices have not ceased.

379. The Committee recommends that the State party intensify its efforts to combat ill-treatment of Roma and non-citizens by the police, especially through the strict application of relevant legislation and regulations providing for sanctions, adequate training and instructions to be given to law enforcement bodies and the sensitization of the judiciary. The State party should also consider recruiting more members of minority groups, especially of the Roma minority, to serve in law

enforcement bodies and strengthening the existing legal aid system for alleged victims, as well as empowering parliamentary commissioners to investigate allegations of ill-treatment and discrimination by the police.

380. The Committee is concerned at the prevailing conditions in refugee shelters and the conditions of detention of undocumented immigrants. Noting the efforts of the State party in this respect, the Committee strongly encourages the Hungarian authorities to further improve the existing facilities so that they meet international standards and to provide relevant information thereon in the next periodic report.

381. The Committee expresses concern at the fact that minorities are under-represented in Parliament. The Committee appreciates the fact that the State party is considering amending existing legislation so as to ensure better parliamentary representation of minorities and encourages it to proceed in this direction.

382. The Committee notes that, notwithstanding the measures provided for in the "Medium-Term Package of Measures", the drop-out rates among Roma students remain high, especially in secondary education and even more so at university level. The Committee strongly recommends that the State party reconsider its policy of assigning Roma children to schools and classes for the mentally disabled. The Committee is also concerned about discriminatory practices resulting from the system of separate classes for Roma students and from private schooling arrangements. While noting that the State party intends to improve the education of Roma, the Committee further recommends that new programmes integrate Roma children into mainstream schools as far as possible, in order to avoid discrimination.

383. The Committee is concerned at the disproportionately higher unemployment rate among the Roma population. The Committee recommends that the State party strictly apply existing anti-discriminatory provisions in that field and ensure in particular that Roma have fair access to professional training programmes and professional activities.

384. The Committee is concerned that the Roma population is disproportionately subjected to discrimination in respect of housing and, in particular, to forced eviction. The Committee recommends that the State party take further positive measures to effectively address the issue of discrimination with regard to housing.

385. The Committee expresses concern about discriminatory practices against persons belonging to the Roma minority in respect of access to public places such as restaurants, bars and cafés. The Committee recommends that the State party continue to intensify its efforts to combat such behaviour and raise the awareness of the population about all aspects of racial discrimination.

386. The Committee is also concerned about the possible discriminatory effects in the socio-economic field of Act LXII of 2001 on "Hungarians living in neighbouring countries" and requests that the State party provide information about the content and application of this law in its next periodic report.

387. The Committee recommends that the State party take into account the relevant parts of the

Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

388. The Committee recommends that the State party ratify the amendments to article 8, paragraph 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.

389. The Committee recommends that the State party's reports be made readily available to the public, including in the national language, from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

390. The Committee recommends that the State party submit its eighteenth periodic report, due on 4 January 2004, that it be an updating report, and that it address the points raised in the present concluding observations.