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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai

Addendum

Mission to Hungary: Comments by the State on the report of the Special Rapporteur*

* Reproduced in the annex as received.

Annex

[English only]

Mission to Hungary: preliminary comments by the State on the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Mugai

Please note, that this document contains proposed language to certain points of the report, as well as some general remarks.

1. **Paragraphs 6- 8.** These points do not reflect properly the geographic and historical context of Hungary, some statements could be misleading (e.g. „After 1526, Hungary was incorporated within the Habsburg empire...”) and several important points are missing (e.g. Slovenia as neighbouring country). Therefore we propose that this part of the report be deleted.
2. **Paragraph 9.** Hungary did ratify the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in January 2012. (Ref.: http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-9-b&chapter=4&lang=en)
3. **Paragraph 13.** We consider necessary to mention the following provisions of the Constitution/Fundamental Law of Hungary concerning national and ethnic minorities in this regard. “In the National Avowal the Fundamental Law stipulates the following: “The national and ethnic minorities living with us form part of the Hungarian political community and are constituent parts of the State. We commit to promoting and safeguarding our heritage, our unique language, Hungarian culture, the languages and cultures of national and ethnic minorities living in Hungary, along with all man-made and natural assets of the Carpathian Basin.” Article 30 of the Fundamental Law is also to be mentioned: „(1) The Commissioner for Fundamental Rights shall protect fundamental rights and shall act at the request of any person. (3) ... The deputies shall defend the interests of future generations and the rights of national and ethnic minorities living in Hungary....”

Position of the Hungarian Government regarding paragraph 13

4. The Fundamental Law clearly reflects the importance national and ethnic minorities play in the Hungarian society under the title “Freedoms and Responsibilities” in its Article XXIX. The National Avowal, which is the Preamble to the Law also underlines the intention of the Government to promote and safeguard the languages and cultures of national and ethnic minorities living in Hungary. The Fundamental Law explicitly stipulates in Art XXIX (1) that national and ethnic minorities living in Hungary shall form an integral part of the State and that every Hungarian citizen belonging to such minorities shall have the right to freely express and preserve his or her own identity. This provision is a clear expression of the State’s intention and commitment to guarantee and support the rights of national and ethnic minorities in Hungary. The promotion and protection of national and ethnic minorities is further underpinned in Art XXIX (2) which allows national and ethnic minorities to establish local and national self-governments. In addition to this, the recently adopted Act No. CCIII on Parliamentary Elections of 22 November 2011 clearly provides an opportunity for national and ethnic minorities to be represented in

Parliament. It stipulates that every voter registered in the electoral roll of a national and ethnic minority shall have the right to participate in parliamentary elections and that the candidates on the national and ethnic minorities' lists are eligible for 'preferential' mandates, meaning that fewer votes are sufficient to win a mandate compared to other lists.

Paragraph 19

5. Hungary wishes to propose the following addendum to this paragraph. „The Criminal Code also contains provisions rendering racist motivation an aggravating circumstance, e.g. in case of homicide [Section 166 § (2) c] and assault [Section 170 § (3)]. (According to Section 166 § (1) Any person who kills another human being is guilty of a felony punishable by imprisonment between five to fifteen years. (2) The punishment shall be imprisonment between ten to twenty years, or life imprisonment, if the homicide is committed: ... c) for another malicious motive or purpose. According to Section 170 § (1) Any person who causes bodily harm to or injures the health of another person, if the injury or illness heals within eight days, is guilty of the misdemeanor of simple battery punishable by imprisonment of up to two years. 3) If the bodily harm is committed for a malicious motive or purpose, and if committed against a person who is defenseless or unable to express his will, the punishment shall be for a felony imprisonment of up to three years for simple bodily harm, and imprisonment between one to five years in case of grievous bodily harm.)”

Paragraph 19

6. We agree with the reference to the amendment of the Hungarian Criminal Code in this paragraph. However, we wish to propose a slight modification in the beginning of the paragraph and the inclusion of the exact language of the law as follows: „The Hungarian Criminal Code was amended in July 2010 in order to introduce a new crime on the denial of the crimes committed by national socialist and communist regimes, including the holocaust. According to Section 269/C Any person who publicly denies the crime of genocide and other crimes committed against humanity by national socialist and communist regimes, or expresses any doubt or implies that it is insignificant is guilty of felony punishable by imprisonment for up to three years.”

Paragraph 25

7. We propose to add the following position of the government to the end of this paragraph: “The government also considers it crucial that data reflecting the effects of redistribution measures on the Roma population be available for the purpose of assessing the social welfare system. To this end, Hungary intends to elaborate an anonymous, uniformed ethnic data collection system based on voluntary self-identification in the grant issuing schemes.”

Position of the Hungarian Government regarding paragraph 25

8. There are no data available related to the ethnic origin of the victims because – according to the Act LXIII of 1992 – personal data revealing racial, national or ethnic origin qualify as special data which may only be processed if the person to whom the data pertain has given his explicit written consent or if so provided by law. This provision is in accordance with the EU Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free transfer of such data which allows States to

prohibit the processing of personal data revealing racial or ethnic origin with the exceptions of the consent of the individual concerned.

9. While taking Roma inclusion measures Hungary generally follows the principle of explicit, but not exclusive focus, therefore we focus most of our measures on the most disadvantaged population. Besides using socio-economic data on the changes of the social situation of the Roma population, the Government also considers it crucial that data reflecting effects of redistribution measures on the Roma population be available for the purpose of assessing the social welfare system. To this end, Hungary intends to elaborate an anonymous, uniformed ethnic data collection system based on voluntary self-identification in the grant issuing schemes.

Paragraph 30

10. In this paragraph the Special Rapporteur welcomes several strategic documents the Hungarian Government elaborated. There is however a misunderstanding at the end of the last sentence, as the Framework Agreement between the Government and the national Roma self-government and the National Social Inclusion Strategy are two separate documents. Therefore we propose the following amendment:

“...the elaboration and adoption of the EU Framework for National Strategies for Roma Integration under the Hungarian Presidency of the Council of the European Union in 2011, the Framework Agreement between the Government and the national Roma self-government, and the National Social Inclusion Strategy (deep poverty, child poverty and the Roma) for 2011-2020, elaborated in the course of the mission.”

11. Hungary also proposes to add more information on the National Social Inclusion Strategy, which was elaborated as the national implementation of the EU Framework for National Strategies for Roma Integration, as well as on the governmental action plan related to the National Strategy. “Hungary elaborated its National Social Inclusion Strategy in 2011, as part of the implementation of the EU Framework for National Strategies for Roma Integration. The Strategy is complex: it lays down an immediate action plan, and also assigns long term tasks. It also involves all those areas and actors, which deal with inclusion policies such as state measures, specified programmes, institutions and other actors (the National Roma Self-Government, churches, civil society organisations, municipalities will operate in cooperation more efficiently in the future). Besides the long term strategy, the Government also adopted the governmental action plan related to it with respect to the years 2012 to 2014. The action plan determines specific tasks, identifies the responsible Members of Government and sets deadlines in the areas of child welfare, education, employment, health care, housing, the involvement of the individuals concerned, the awareness raising and the fight against discrimination. The funds – both national and EU resources – at our disposal for realizing these goals amount approximately to 200 bn HUF for 3 years.”

Paragraph 31

12. Regarding the effective involvement of all relevant actors including the Roma, in the development and implementation of the National Strategies, Hungary proposes to add the following to the report: “A Roma Coordination Council was set up in order to ensure the non-governmental participation in the elaboration, implementation and monitoring process of the National Strategy. The members of the Council are representatives of Roma minority self-governments, local governments, churches and civil organizations. The Council is

chaired by the Minister of Public Administration and Justice. It is tasked to draw the attention of decision makers to the challenges of Roma inclusion, elaborate opinions regarding planned measures, as well as to contribute to the collection of best practices and monitoring the implementation.”

Position of the Hungarian Government regarding paragraph 31

13. Regarding the recommendation of the Special Rapporteur on the effective involvement of all relevant actors in the development and implementation of the national strategies Hungary deems it essential to mention its measures taken in this context. The development of the National Social Inclusion Strategy includes a thorough consultation process with relevant actors. A Roma Coordination Council was set up, to ensure the non-governmental participation in the elaboration, implementation and monitoring process of the National Strategy. The members of the Council are representatives of Roma minority self-governments, local governments, churches, and representatives of civil organizations. The Council is chaired by the Minister of Public Administration and Justice. The Council is meant to meet regularly in order to draw the attention of decision makers to the challenges of Roma inclusion, elaborate opinions regarding planned measures as well as to contribute to the collection of best practices and monitor the implementation.

Position of the Hungarian Government regarding paragraph 33

14. The main objective of the Framework Agreement is to promote the social inclusion of the Roma and those living in extreme poverty and disadvantaged circumstances. At the same time the Government of Hungary and the National Roma Self-Government acknowledge the fact that the situation of the Roma community sharing common destiny with the non-Roma society, had worsened in the past decades in numerous spheres of life. Therefore, the two parties signed the Framework Agreement in order to express that the strengthening of the co-existence of the Roma and non-Roma population and building a common future is of utmost importance. It is a priority goal to create a discrimination-free, inclusive society ensuring the social inclusion of the Roma community. With regard to the implementation of the objectives of the Framework Agreement, it should be stressed that a monitoring mechanism is operational. The first monitoring report has been recently prepared and is going to be submitted to the Government within weeks.

Position of the Hungarian Government regarding paragraph 35

15. The Government acknowledges that in Hungary, as in many other European or non-European countries there are social problems and conflicts stemming from racial prejudice. Allegation that such facts are denied by the Hungarian Government is clearly contradicted by the adoption in May, last year of the above mentioned National Social Inclusion Strategy, which proves its commitment to build a solid base for social inclusion of the Roma. Besides, the Hungarian society has historically proved its openness to people of any nation or race. We also regret that these stakeholders refuse to acknowledge the efforts made by Hungary to address the problems. A separate State Secretariat of the Ministry of Public Administration and Justice deals with the issue of social inclusion. The government is working hard to ensure that marginalized people – a majority of whom are of Roma origin – can once have the opportunity to work, to have their children properly educated in public schools, and to live in decent surroundings. It is also worth mentioning, that the implementation of the goals of the National Social Inclusion Strategy is not possible without raising the awareness of the problem and shaping public opinion (of course beyond

the application of the legal guarantees against discrimination). Attitude shaping is a complex and lengthy process, which is most effective in childhood, i.e. in the field of education. However, it is likewise essential to gain the support of the adult society, which could facilitate the attainment of the targets of social inclusion, i.e. desegregation, reduction of institutional discrimination in the areas of education, employment, housing and health care. A monitoring system of the National Social Inclusion Strategy will be elaborated by the end of May 2012. Among others it will collect information on measures taken by responsible ministries. A comprehensive indicator system is also meant to be developed in order to gain an accurate picture on the situation of the target groups (Roma, the children and those living in extreme poverty). Relevant information and data will be published, by which we wish to encourage a positive attitude shaping towards marginalized groups of the society. The government also intends to involve municipalities, mayors and other decision makers at the local level in promoting social inclusion. The commitment of local authorities is supposed to be ensured by providing them access to the development resources - both EU and national resources - only in case of elaborating their own local equal opportunity situation analysis and action plan. The Hungarian government provides thorough instructions to achieve this aim. The goal of the Government is to use these means as incentives for the local municipalities in order to facilitate the involvement of the interests of the disadvantaged groups into local decision making.

Position of the Hungarian Government regarding paragraph 37

16. The Government's view is that although discrimination may exist in the labour market in Hungary, the main cause of the high unemployment of the Roma population is their low educational qualification which makes them particularly vulnerable to structural unemployment. Therefore, the Government focuses its efforts on training and employment programmes for the disadvantaged population, among them the Roma. As for public employment we stress that the government's intention is to renew this system in order to raise the employment rate of persons with low educational level, to boost job-search activity and to promote their (re-)entry into the primary labour market. Within the new system the Ministry of Interior supports public employment programmes, which create part or full-time jobs all over Hungary. Labour market service and training are also provided within the framework of the programmes. Three areas are concerned by public employment programmes: agriculture, local authorities and the public sector.

Paragraph 38

17. Hungary wishes to highlight that the Special Rapporteur also had the opportunity to visit the city of Mohács, and receiving information on desegregation measures. Therefore, Hungary proposes to add the some information on this field visit to the report. "The Special Rapporteur also visited the city of Mohács, where the city council took effective measures against any desegregation by creating a central institution. The main aim of which is to effectively prevent segregation by integrating the city's elementary schools. The Center also has a say in schooling issues, by which desegregation can be promoted."

Position of the Hungarian Government regarding paragraph 38

18. Hungary wishes to highlight that apart from visiting Ózd the Special Rapporteur also had the opportunity to visit the city of Mohács. Therefore, it is essential that the report - for the sake of comprehensiveness - also mentions the information on desegregation measures shared with Mr. Muigai in both places. In this context we wish to highlight that the city

council of Mohács took effective measures against desegregation by creating a central institution (General Education Center - Mohács Térségi Általános Művelődési Központ). The main aim of which is to effectively prevent segregation by integrating the city's elementary schools. It also has a say in schooling issues, by which desegregation can be promoted.”

Paragraph 41

19. Hungary proposes to add some facts with regard to the mentioning of concrete attacks against Roma individuals: “Between 21th July 2008 and 3rd of August 2009 Roma were attacked in nine occasions resulted in the death of seven adults and two children. The Hungarian police sought international help for the investigation of these crimes. The police – due to this cooperation - apprehended suspects on 21st August, 2009 and the case is being heard in the Hungarian Courts.”

Position of the Hungarian Government regarding paragraph 41

20. Hungary believes that if some concrete cases are referred to in the report, the public should be properly informed. It is therefore necessary to mention concerning the attacks committed against Roma people the following: between 21th July 2008 and 3rd of August 2009 Roma were attacked in nine occasions resulting in the death of seven adults and two children. The Hungarian police sought international assistance for the investigation of these crimes. The police – due to this cooperation - apprehended suspects on 21st August, 2009 and the case is being heard in the Hungarian Courts. It is also important to highlight, that after having come to power in the summer of 2010, one of the first measures taken by the government was to establish the State Secretariat for Social Inclusion under the auspices of the Ministry of Public Administration and Justice. The State Secretariat also donated several millions of HUF to assist the relatives of the victims of these crimes. As a result the families concerned were able to move into new houses.

Position of the Hungarian Government regarding paragraph 42

21. The government wishes to draw the attention to the recent visit of Rabbi Andrew Baker, Director of the International Jewish Affairs for the American Jewish Committee and Personal Representative of the OSCE Chair on Combating Anti-Semitism. He noted that the situation of Jews and the Roma is entirely different, but somewhat merged in some public discourse. He also recognized the Government's efforts in stepping up against extreme radical ideas and crimes with racist motivation. In May 2011 the Parliament amended the Penal Code regarding violence against members of communities. Within the framework of the Raoul Wallenberg Year, Hungary celebrates the 100th anniversary of the birth and honour the memory of the Swedish martyr. In January 2012 ,the Wallenberg Prize was established for awarding individuals and municipalities, who contributed to the promotion of peaceful coexistence of Roma and non- Roma people, since their activities contribute to the Hungarian combat against negative prejudices and racism.

Paragraph 47

22. The Hungarian government considers it necessary to add some information on the actions taken with regard to the manifestations of far-right extremism. “The Government took swift and decisive action to prevent organized intimidation of the Roma. Upon manifestations of far-right extremism in the village of Gyöngyöspata appropriate measures

were taken in order to stop them and prevent such actions in the future. Since then, there have been no further extremist events of this kind in the country.”

Position of the Hungarian Government regarding paragraphs 45 and 47

23. The government rejects the allegations according to which it shares the values and aims of the far-right Jobbik party. The Fidesz-KDNP government represents conservative, Christian democratic values. It must not be forgotten that the Hungarian government took swift and decisive action to prevent organized intimidation of the Roma, strictly outlawing extremist groups. After manifestations of far-right extremism in the village of Gyöngyöspata, the Government’s swift measures put a halt to them in May 2011. Since then, there have been no further extremist events of this kind in the country.
