



## 人权理事会

## 第二十八届会议

## 议程项目 9

## 种族主义、种族歧视、仇外心理和相关的不容忍现象：

## 《德班宣言和行动纲领》的后续行动和执行情况

## 当代形式的种族主义、种族歧视、仇外心理和相关的不容忍现象问题特别报告员杰苏·穆伊盖的报告

## 增编

## 对匈牙利的访问\*

## 概要

应匈牙利政府的邀请，当代形式种族主义、种族歧视、仇外心理和相关不容忍现象问题特别报告员于 2011 年 5 月 23 日至 27 日访问了匈牙利。

特别报告员讨论了涉及少数民族和少数族裔的问题，包括罗姆人、反犹太主义、仇恨言论、极端主义政党、运动和团体、移民、难民、寻求庇护者和无国籍等问题。

特别报告员提出了若干建议，包括政府应：

- 确保在匈牙利议会少数族裔和少数民族具有充分的代表性。此外，少数民族自治政府应加强，包括通过划拨足够的财力、人力和技术资源。
- 采取一切必要措施，以减少罗姆人十分高的失业率，并加大努力，消除对罗姆人的种族歧视和在教育方面罗姆人遭到的隔离。

\* 本文件的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以提交语文分发。

- 确保在罗姆人有效参与政治和公共生活以及他们在议会和政党中具有充分的代表性。
- 制定一项全面的国家战略，以防止和打击针对罗姆人的种族暴力行为；收集种族主义罪行的数据，并按种族加以分类；对侵犯罗姆人的种族主义行为进行及时、彻底和公正的调查，并确保全面起诉和制裁对这些行为负责的人。
- 加紧努力，防止和消除所有的反犹太主义的表现形式，并采取果断措施，谴责仇恨言论，包括对罗姆人的仇恨言论。
- 对 Jobbik 党反罗姆人和反犹太主义的言辞采取必要的防范措施，此类言辞无视人权，包括无视不歧视和平等的原则。采取更果断的措施，以消除针对罗姆人的极端准军事组织的现象。
- 制定和实施一项综合性融合战略，早日融合移民、难民和寻求庇护者，政府在普遍定期审议期间同意这样做。

## Annex

### **Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai, on his mission to Hungary (23-27 May 2011)**

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## I. Introduction

1. At the invitation of the Government, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited Hungary (Budapest, Ózd, Gyöngyöspata, Pécs and Mohács) from 23 to 27 May 2011. He held extensive meetings with authorities from the executive, legislative and judicial branches.

2. In addition to the meetings with government and State institutions, the Special Rapporteur met with representatives from the Office of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, and the Parliamentary Commissioner for Data Protection and Freedom of Information. The Special Rapporteur also had extensive meetings with political parties, civil society organizations, lawyers, representatives of minorities, academics and private citizens, as well as individual victims of racism, racial discrimination, xenophobia and related intolerance. He also visited a prison in Budapest (Fővárosi Büntetés-végrehajtási Intézet) and a school in the city of Ózd. A full list of authorities met by the Special Rapporteur is contained in the appendix.

3. The visit to Hungary by the Special Rapporteur has a particular significance since it occurred more than ten years after the first visit to Hungary of a previous Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follows the visit in 2006 of the Independent Expert on minority issues. Thus in order to assess the main challenges that lie ahead in the fight against racism, racial discrimination, xenophobia and related intolerance in Hungary, the Special Rapporteur relied on recommendations made by the earlier mandate holders. He also followed up on the relevant recommendations and commitments made by the Government during the universal periodic review process of the Human Rights Council that took place on 11 May 2011.

4. The Special Rapporteur wishes to express his sincere gratitude to the Government of Hungary for its full cooperation and openness in the preparation and conduct of the visit. He also wishes to convey his appreciation to the various civil society representatives who cooperated with him through the mission. The conclusions and recommendations in this report are based on the fruitful exchanges with Hungary-based interlocutors and the Special Rapporteur's own analysis. He hopes that these will contribute to finding concrete ways and means of addressing the challenges raised in this report in an effective and human rights-compliant manner.

5. The present report is structured as follows: in chapter II, the Special Rapporteur briefly refers to the general background. He then examines the legal and institutional human rights framework for combating racism in chapters III and IV. In chapter V he addresses a number of key issues in the fight against racism, presenting the views shared with the Special Rapporteur both by Government officials and civil society. Finally, conclusions and recommendations are presented in chapter VI.

## II. General background

6. Hungary is a landlocked country comprising an area of 93,030 km. It is bordered by Austria, Croatia, Romania, Serbia, Slovakia, Slovenia and Ukraine.

7. According to the 2001 census,<sup>1</sup> out of a total population of 10,198,315 there were 190,046 Roma (1.9 per cent); 62,233 Germans (0.6 per cent); 17,693 Slovaks (0.17 per cent); 15,620 Croatian (0.15 per cent); 7,995 Romanians (0.07 per cent); 5,070 Ukrainians (0.04 per cent); 3,816 Serbs (0.03 per cent); 3,040 Slovenians (0.02 per cent); 2,962 Poles (0.02 per cent); 2,509 Greeks (0.02 per cent); 1,358 Bulgarians (0.01 per cent); 1,098 Ruthenians (0.01 per cent) and 620 Armenians (0.006 per cent). There are also an estimated 100,000 Jews in Hungary. Unofficial estimates variously put the number of Roma between 250,000 and 800,000 of the population. Hungary has a growing immigrant population, dominated by numerous Chinese.

8. According to information received subsequent to the mission a national census was carried out in October 2011. The final results of the census had not yet been published at the time of writing.

### **III. Legal human rights framework**

#### **A. International human rights framework**

9. At the international level, Hungary is a State party to the core international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol. Hungary is also a State party to the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons, the Convention on the Reduction of Statelessness and the UNESCO Convention against Discrimination in Education. However Hungary is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

10. At the regional level, Hungary has ratified key instruments including the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities, the European Social Charter of 1961 and the Revised European Social Charter of 1996. Hungary has yet to ratify the 1995 Collective Complaints Protocol of the European Social Charter, the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms which provides for a general prohibition of discrimination.

#### **B. Constitutional provisions**

11. The new Hungarian Constitution, adopted with a two-thirds majority by the Hungarian Parliament on 25 April 2011, entered into force on 1 January 2012. In this regard a series of laws were introduced after the mission. At the time of the mission some

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<sup>1</sup> <http://www.nepszamlalas2001.hu/eng/index.html>

interlocutors expressed concern about the way the process for the adoption of the new Constitution had been carried out, including the limited time frame established for its adoption, the lack of transparency and adequate consultation of the general public, and the limited opportunities for an adequate public debate.

12. The new Constitution<sup>2</sup> contains provisions of particular relevance to the mandate of the Special Rapporteur, including article XV, which prescribes that “(1) Every person shall be equal before the law. Every human being shall have legal capacity. (2) Hungary shall ensure fundamental rights to every person without any discrimination on the grounds of race, colour, sex, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever. [...] (4) Hungary shall adopt special measures to promote the implementation of legal equality”.

13. The other relevant provisions concern the Hungarian ethnic and national minorities referred to as “Nationalities”. Article XXIX affirms that “(1) Nationalities living in Hungary shall be constituent parts of the State. Every Hungarian citizen belonging to any nationality shall have the right to freely express and preserve his or her identity. Nationalities living in Hungary shall have the right to use their native language and to the individual and collective use of names in their own languages, to promote their own cultures, and to be educated in their native languages. (2) Nationalities living in Hungary shall have the right to establish local and national self-governments. (3) The detailed rules for the rights of nationalities living in Hungary and the rules for the elections of their local and national self-governments shall be defined by a cardinal Act”. The Special Rapporteur notes with concern that the new Constitution no longer stipulates explicitly whether the rights recognized as belonging to minorities will be guaranteed and supported by the State. Furthermore, the Constitution no longer includes provisions regarding the collective participation of minorities in public affairs and their representation. Article 2 (2) of the Constitution under the Chapter entitled “State” only prescribes that “Nationalities living in Hungary shall contribute to Parliament’s work as defined by a cardinal Act”. Finally, while the new Constitution declares the right for minorities to use their native languages, article H only provides for the protection of the Hungarian language without referring to other languages.<sup>3</sup>

14. With regard to non-citizens, article XIV (3) states that “Hungary shall grant asylum to all non-Hungarian citizens as requested if they are being persecuted or have a well-founded fear of persecution in their native countries or in the countries of their usual residence due to their racial or national identities, affiliation to a particular social group, or to their religious or political persuasions, unless they receive protection from their countries of origin or any other country”. The Special Rapporteur welcomes such provisions. However he is concerned that some human rights are granted to Hungarian citizens, but not to non-citizens including for instance the right to education (article XI (1)) and the enjoyment of social security (article XIX (1)).

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<sup>2</sup> Available from [http://www.kormany.hu/download/2/ab/30000/Alap\\_angol.pdf](http://www.kormany.hu/download/2/ab/30000/Alap_angol.pdf)

<sup>3</sup> Article H “(1) In Hungary the official language shall be Hungarian. (2) Hungary shall protect the Hungarian language. (3) Hungary shall protect Hungarian Sign Language as a part of Hungarian culture”.

### **C. Specific legislation prohibiting racism, racial discrimination, xenophobia and related intolerance**

15. The Special Rapporteur welcomes the adoption by Parliament on 22 December 2003, of Act No. CXXV on Equal Treatment and Promotion of Equal Opportunities (Equal Treatment Act) which entered into force on 27 January 2004. The Act constitutes comprehensive legislation to combat racial discrimination. It prohibits both direct and indirect discrimination on 19 grounds, including racial origin, colour, nationality, origin of national or ethnic minority, mother tongue, religious or ideological conviction, sexual orientation, and sexual identity (article 8). It also explicitly prohibits segregation (article 7 (1)). A broad range of fields are covered under this legislation including employment, social security, health care, housing, education and training, as well as the sale of goods and use of services. The Act further applies to both public and private actors and allows the adoption of positive measures of a temporary duration for certain disadvantaged groups.

16. Since its adoption the Act has been amended and improved including in the area of employment. In this regard the Special Rapporteur welcomes the fact that the payment of different salaries wages or other benefits to individuals on the basis of their colour, race, nationality, national or ethnic origin is always considered to violate the principle of equal treatment. The Special Rapporteur further notes with appreciation that institutions financed by the State budget and employing more than 50 people, as well as legal entities in which the State has a majority ownership, are required to adopt an equal opportunities plan.

### **D. Criminal Code**

17. The Hungarian Criminal Code contains specific prohibitions with regard to racism. Section 174/B of the Criminal Code criminalizes violence against a member of a national, ethnic, racial or religious group, which is punishable with imprisonment of up to five years under section 174/B (1), and between two to eight years under section 174/B (2) if the crime is committed (a) by force of arms; (b) in an armed manner; (c) causing a considerable injury of interest; (d) with the torment of the injured party; (e) in groups; (f) in a criminal conspiracy. Under section 269 entitled "Incitement against a Community" a person who incites the general public to hatred of any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offence with imprisonment of up to three years.

18. The Hungarian Criminal Code also contains provisions under section 269/B on the use of symbols of despotism such as a swastika, the SS sign, an arrow cross, hammer and sickle, a five-pointed red star or a symbol depicting any of the above. Such an offence is punishable with a fine unless a more serious crime is committed. The crimes of genocide (section 155) and apartheid (section 157) are also included in the Criminal Code.

19. According to the Government, racist motivation is an aggravating circumstance under the Criminal Code in case of homicide (section 166 (2) (c)) and assault (section 170 (3)). The authorities also reported that the Criminal Code was amended in 2010 in order to introduce a new crime of denial of the holocaust, and a new administrative offence which consists in the conduct and participation in the activities of a civil organization disbanded by Court decision or the wearing of a uniform or vestment of such a dissolved civil organization at a public event.<sup>4</sup>

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<sup>4</sup> A/HRC/WG.6/11/HUN/1, paras. 35-37.

#### IV. Institutional human rights framework

20. During the mission the Special Rapporteur noted that significant changes have been made in government bodies responsible for issues related to the mandate. They include in particular the creation of the State Secretariat for Social Inclusion under the Ministry of Public Administration and Justice, which has the primary responsibility for Roma issues. The positive contribution of the Equal Treatment Authority, the administrative body created in 2005 in accordance with the above-mentioned Equal Treatment Act should also be highlighted.

21. The Authority is responsible for ensuring equality and equal treatment by monitoring the implementation of the Equal Treatment Act. It is competent to receive complaints and investigate matters in response to individual complaints, *actio popularis* submitted by NGOs and other stakeholders, or on its own initiative. The Authority may also impose fines. Its decisions are binding and may be made public. The Authority also gives opinions on draft legislation, makes proposals to the Government, and works closely with civil society actors. According to the report of the activity of the Authority in 2010, among the nearly 1,500 complaints, the Authority launched proceedings in 377 cases, in 40 of which it established that a violation of rights had occurred, and 244 cases were continuing in 2011. The Authority established that the vast majority of complaints received are related to employment and that there had been direct discrimination in 36 cases, harassment in 6 cases, and 1 case each of indirect negative discrimination, unlawful segregation and retribution.<sup>5</sup>

22. The Special Rapporteur welcomes the large number of complaints received by the Authority, which demonstrates its effectiveness. However he is surprised that among the nearly 1,500 complaints the Authority launched proceedings in only 377 cases. This may indicate a limited knowledge among the general public of the competence of the Authority and the concept of discrimination.

23. Furthermore while the Special Rapporteur takes note of the assurances provided by the authorities regarding the independence of the Authority,<sup>6</sup> reports and information received before the mission expressed concern at the effective independence of the Authority, which operates under the direction of the Minister of Public Administration and Justice. The lack of adequate resources was also reported.

24. The Special Rapporteur is concerned that following the adoption of the new Constitution the Parliamentary Commissioners for Civil Rights, Future Generations, and the Rights of National and Ethnic Minorities were merged into a single institution, namely the Commissioner for Fundamental Rights. He deeply regrets the abolition of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, an independent body which was designated to address the rights of national and ethnic minorities. According to article 30 of the Constitution “(1) The Commissioner for Fundamental Rights shall protect fundamental rights and shall act at the request of any person. (2) The Commissioner for Fundamental Rights shall examine or cause to examine any abuses of fundamental rights of which he or she becomes aware, and shall propose general or special measures for their remedy. (3) The Commissioner for Fundamental Rights and his or her deputies shall be elected for six years by a two-thirds vote of the Members of Parliament. The deputies shall defend the interests of future generations and the rights of nationalities living in Hungary. The Commissioner for Fundamental Rights

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<sup>5</sup> Available from <http://www.egyenlobanasmod.hu/data/2010report.pdf>

<sup>6</sup> A/HRC/18/17, para. 82.



and his or her deputies shall not be affiliated to any political party or engage in any political activity. (4) The Commissioner for Fundamental Rights shall present to Parliament an annual report on his or her activities. (5) The detailed rules for the Commissioner for Fundamental Rights and his or her deputies shall be determined by an Act”.

25. At the time of the mission the Special Rapporteur met with the Parliamentary Commissioner for Data Protection and Freedom of Information. After the mission he was informed that the Parliamentary Commissioner for Data Protection and Freedom of Information had been replaced by an independent authority for the protection of personal data and the access to data of public interest (article VI (3)). In this regard the Special Rapporteur regrets the lack of ethnically disaggregated data in Hungary.

## **V. Main challenges in the fight against racism, racial discrimination, xenophobia and related intolerance**

### **A. National and ethnic minorities**

26. Hungary officially recognizes 13 minorities, including Armenians, Bulgarians, Croatians, Germans, Greeks, Polish, Roma, Romanians, Ruthenians, Serbians, Slovaks, Slovenians and Ukrainians. The Government has made significant efforts to fulfil its international human rights obligations with respect to the situation of its national and ethnic minorities. Commendable measures have been taken, especially in the areas of culture and education, where the Government has developed a very elaborate policy which recognizes and promotes the languages of the 13 minorities. The authorities have also continued to provide support for activities to preserve and develop the cultural heritage of national minorities, which is very much welcomed. However, at the time of the mission the Special Rapporteur was informed of a decrease in the Government financial support for bilingual schools. Some interlocutors also indicated that mainstream schools do not provide sufficient space for minority language teaching and that the most common model remains one where minority languages are taught as a second or foreign language.

27. The Special Rapporteur welcomes Act No. LXXVII on the Rights of National and Ethnic Minorities, which is the main law regulating the rights of minorities in Hungary. Adopted in 1993, the law prohibits assimilation, exclusion and segregation of minorities (article 4 (1)) and any violation of the principle of equal treatment (article 3 (5)).<sup>7</sup> It further recognizes the right for minorities to establish local, national and regional (article 5 (1)) minority self-governments primarily competent to deal with cultural and educational affairs. The system of minority self-governments remains an important part of the autonomy granted to minorities in these areas. The Special Rapporteur also appreciates the amendments made to improve the electoral system of minority self-government and ensure that only those belonging to a given minority take part in the election. The system of minority self-governments is welcomed by the Special Rapporteur as good practice. However during the mission some interlocutors expressed concern at the decrease in government financial support to minority self-governments.

28. While the legal and policy measures developed for minorities are welcomed, the long-standing issue of their representation in the Hungarian Parliament remains unresolved to date. Hungarian minorities are still not represented in the Parliament although the law on minorities provides for it. According to the Government the new Parliament adopted a

<sup>7</sup> Available from <http://www.kisebbsegombudsman.hu/data/files/128317683.pdf>

regulation in 2010 which prescribes that in addition to the 200 parliamentary representatives, a maximum of 13 representatives can be elected to ensure the parliamentary representation of national and ethnic minorities.<sup>8</sup> The new electoral law is expected to be implemented during the national elections scheduled for 2014. Furthermore, the Government indicated that individuals belonging to minorities have been members of the National Assembly for decades as representatives of the various political parties and that delegates of the 13 national minority self-governments can participate actively in the work of the minority committees and other committees in the Parliament.<sup>9</sup> However NGO representatives argued that the current situation is not adequate to ensure the proper representation of minority interests at the national level and that a specific mechanism for their representation in the Parliament is needed.

## **B. The situation of the Roma minority**

### **1. Key measures adopted by the Government**

29. The situation of Roma, who represent the largest minority group in Hungary, was more often raised by the different interlocutors in comparison with the 12 other Hungarian national and ethnic minorities. All the Special Rapporteur's interlocutors, including Government officials and civil society representatives, agreed that the situation of Roma individuals had not improved in recent years, but rather worsened. The problems faced by the Roma minority have been addressed by the previous<sup>10</sup> and current Government from the wide perspective of economically and socially disadvantaged groups. A policy was confirmed by the Minister of State for Social Inclusion during a meeting with the Special Rapporteur. According to the authorities Roma mainly face economic and social difficulties that have their origins both in the collapse of the Communist regime, when the majority of Roma lost their jobs, and the current economic situation. The authorities do not consider it to be primarily a matter of racial discrimination or racial prejudice as such. Civil society interlocutors tended to argue that the current problems experienced by Roma are due to racism, racial discrimination and deeply rooted negative stereotypes against Roma.

30. Key legal, policy, and institutional measures were initiated and implemented by the Government with regard to Roma. The Special Rapporteur welcomes in particular the adoption in 2007 by the parliament of the resolution on the Decade of Roma Inclusion Programme Strategic Plan for 2007-2015, which sets a framework for action to improve Roma access to education, employment, housing and health care; the development and adoption of the European Union framework for national Roma integration strategies under the Hungarian Presidency of the Council of the European Union in 2011; the National Social Inclusion Strategy "Extreme Poverty, Child Poverty and the Roma" for 2011-2020 set up as part of the implementation of the European Union Framework for National Strategies for Roma Integration; and the Framework Agreement between the Government and the National Roma Self-Government drawn up in the course of the mission.

31. The Special Rapporteur encourages the Government to implement these policies fully, especially the National Social Inclusion Strategy "Extreme Poverty, Child Poverty and the Roma" for 2011-2020. In particular, the Special Rapporteur recommends that the Government ensure the effective involvement of all the relevant actors, including Roma, in the development and implementation of the National Social Inclusion Strategy and ensure

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<sup>8</sup> A/HRC/WG.6/11/HUN/1, para. 86.

<sup>9</sup> A/HRC/WG.6/11/HUN/1, para. 85.

<sup>10</sup> E/CN.4/2000/16/Add.1, para. 104; A/HRC/4/9/Add.2, para. 31.

sufficient funding for its implementation. During the mission, some civil society and Roma representatives complained about the lack of implementation of the policies developed for Roma, including the Decade Strategic Plan. This was also recognized by the authorities, who admitted that pilot projects set up in this framework had not been fully implemented.

32. The newly adopted Framework agreement between the Government and the National Roma Self-Government was presented by the Government as a major step in moving forward to the improvement of the situation of Roma. According to the authorities the programme aims to improve the living conditions of Roma and facilitate their social inclusion through more employment and educational measures. The agreement establishes a joint decision-making system between the Government and the National Roma Self-Government. The authorities indicated that special measures should be implemented in this context. Short- and long-term objectives have been set, some to be achieved by 2015, including inter alia the involvement of 100,000 unemployed Roma in the labour market, the realization of a comprehensive education reform which will result in 20,000 young Roma people learning marketable skills in one of the 50 vocational schools taking part in the inclusion programme, and support for the education of 10,000 Roma young people in high schools. The Government indicated to the Special Rapporteur that the authorities will take responsibility for financing the implementation of the programme.

33. The Special Rapporteur expresses his appreciation at the adoption of the Framework agreement. However he regrets the absence of measures to prevent and eliminate racial discrimination against Roma. Furthermore, given the overwhelmingly low educational levels attained by the Roma the Special Rapporteur is concerned that the public jobs to be created may be temporary low-skilled and low-paid employment similar to those already existing in the framework of some public work programmes implemented at the local level, as for instance in Pécs, where the Special Rapporteur met with the Mayor of the City. The Special Rapporteur recommends that the Government duly consider the concerns expressed by him during its implementation of the Framework Agreement. Moreover some civil society representatives argued that the Framework Agreement is essentially a political agreement to satisfy public demand which contains very ambitious objectives that are not appropriate to the current situation of Roma and may not be implemented.

## 2. Remaining challenges

### (a) *Structural and institutionalized discrimination*

34. The Special Rapporteur recognizes that much has been achieved in the past few years to fight against racism, racial discrimination and intolerance against Roma and to integrate them. He commends the Government for all the efforts made in this regard. However, despite the adoption of several positive initiatives, many Roma are still not sufficiently integrated into Hungarian society. In addition, Roma continue to suffer from racism and racial discrimination which aggravate their socio-economic marginalization and exclusion. They experience structural and institutionalized discrimination that will require urgent and more vigorous action from the Government.

35. The Special Rapporteur's interlocutors stressed that racial prejudice and negative stereotypes of Roma remain deeply rooted in Hungarian society. Several NGOs confirmed that public opinion is distrustful and vindictive towards Roma, including the young generation. There was a perception among some civil society interlocutors that the Government seemed to deny this reality. However the authorities recognized the difficulties associated with changing mentalities and reaffirmed their commitment to do so while stating that young people are more open and tolerant due to an integrated education.

36. The Special Rapporteur was particularly alarmed to hear from several interlocutors that racism against Roma prevails not only in the mindsets of the general public but also

within public institutions, including the police and the judiciary. During a meeting held with the Ministry of Interior the Special Rapporteur was informed about initiatives developed both by the Police and the Ministry related inter alia to the recruitment of Roma to the police, racial prejudices, racially motivated crime, and “multicultural conflicts”. While such steps are welcomed, the Special Rapporteur is very concerned at reports received during the mission about the persistence of racial profiling against the Roma by the police; cases of police officers refusing to record Roma complaints and regularly abusing them verbally and physically; and disproportionate fines imposed by the police on Roma on a regular basis in breach of the law. Some interlocutors, including Roma victims themselves, also indicated that investigations of racist crime against Roma have been limited. Discriminatory behaviour by the police must stop, and Hungary must take concrete measures to end impunity for police misconduct. Furthermore, while discussing the judiciary with several interlocutors, including Roma individuals, the Special Rapporteur was told that Roma continue to experience racial discrimination and strong racial prejudice from within the judiciary, including from judges. It was reported that the situation is of particular concern in the criminal justice system. For instance, cases of Roma being sentenced more severely by the Courts were highlighted.

(b) *Employment*

37. According to civil society representatives, Roma are often discriminated against in employment and as a result face a high rate of unemployment. The unemployment rate of Roma is estimated at 70 per cent, more than 10 times the national average;<sup>11</sup> most are reported to live in extreme poverty. According to the authorities, an important solution to the integration of Roma is the creation of public jobs. However, civil society representatives argue that public jobs have produced limited results in reducing the Roma unemployment rate and lifting them out of poverty and social exclusion. The majority of Roma continue to be largely unemployed and dependent on social benefits. They also stressed that the number of public jobs available to Roma is very limited, and that these are short-term, low-skilled jobs, with low salaries, such as garbage collectors or street sweepers. In this regard the Special Rapporteur would like to express his extreme concern at information received subsequent to the mission about a public work programme implemented in Gyöngyöspata under which Roma had to work in inhuman circumstances under the surveillance of guards while receiving low salary for such jobs.

(c) *Education*

38. Some measures have been initiated to tackle discrimination and segregation against Roma in the area of education, including for instance the 1993 Act LXXIX on Public Education, which prohibits segregation, the reconsideration of the configuration of catchment areas in cases where segregation occurs, as well as public education equal opportunity action plans, which according to the authorities is an obligation for the schools and the municipalities.<sup>12</sup> In the city of Mohács where the Special Rapporteur met with the Office of the Mayor, the city Council created the General Education Center (Mohács Térségi Általános Művelődési Központ), the aim of which is to effectively prevent segregation in schools. Despite such initiatives the lack of equality in access to quality education for Roma persists. As witnessed by the Special Rapporteur, segregation of Roma children in the area of education and their poor educational achievements remain an issue

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<sup>11</sup> Minority Rights Group International, “World Directory of Minorities and Indigenous People – Hungary : Roma”, August 2009, available at <http://www.unhcr.org/refworld/docid/49749d143c.html>

<sup>12</sup> A/HRC/WG.6/11/HUN/1, para. 15.

of great concern. During the mission the Special Rapporteur visited a primary school in Ózd where the vast majority of children were Roma. He also met with three generations of Roma who have not been to school. Furthermore, some of the interlocutors of the Special Rapporteur reported a decline in the quality of education in regions inhabited by Roma and the placement of Roma children in special schools. While the authorities reported during the mission that five more years were needed to eliminate segregation in the area of education, the Special Rapporteur strongly reiterates his call to the Government to urgently reinvigorate the education of Roma with all the necessary resources.

(d) *Housing and health*

39. During the mission the Special Rapporteur met with Roma families living in public social housing lacking basic services and infrastructure, including running water and electricity, in a segregated area in Ózd. The Special Rapporteur was informed that some housing programmes have been developed, some of which as part of the Decade of Roma Inclusion Program Strategic Plan. They include for instance the “Housing and Social Integration Programme for Residents of Roma settlements” implemented in 30 municipalities, and the setting up of 160 anti-segregation plans to address the segregation of Roma in the area of housing. The Special Rapporteur welcomes such initiatives but, with regard to housing, remains concerned at the continuing discrimination, segregation and substandard living conditions of Roma and reports of forced evictions of Roma. In addition, while the health system was reformed in 2006, a supervisory authority set up to receive complaints in case of infringement of the rights of patients, and several programmes elaborated by the authorities to raise awareness among medical staff of the specific situation of Roma, the Roma minority continue to face discrimination in the access to health care and services and have a lower life expectancy rate.

(e) *Political participation*

40. Although there are four Roma in the current Hungarian Parliament, in general Roma are still widely excluded from public and political life in Hungary. In this regard the Government highlighted the programmes set up to ensure the presence of Roma in the administration, the important role of the national Roma self-government, and the political organization of Roma through various associations, including the Longo Drom. However civil society interlocutors expressed concerns about the fact that both the Longo Drom and the current National Roma Self-Government are led by a member of the ruling Fidesz-Hungarian Civic Union (Fidesz) party, which raises the issue of the real autonomy of the National Roma Self-Government and the effective empowerment of the Roma minority in general.

(f) *Racial violence*

41. Roma in Hungary remain subject to increased violence, which is particularly alarming. Several interlocutors reported racist attacks and hate crimes committed against Roma individuals, which have resulted in some cases in their houses being burnt, and injuries to and deaths of Roma individuals. Furthermore some interlocutors highlighted that for fear of further stigmatization and violence some Roma refuse to report incidents to the police. The low level of prosecution and sanctions in cases concerning Roma victims, which fosters impunity, is also of concern.

## C. **Anti-Semitism**

42. As stated earlier there are an estimated 100,000 Jews in Hungary. The Jews are not recognized as an ethnic or national minority despite several initiatives to obtain such

recognition. As mentioned earlier, the Criminal Code was amended in 2010 in order to introduce a new crime of denial of the holocaust, which is welcomed by the Special Rapporteur as a positive step in combating anti-Semitism. Nonetheless, during the mission some interlocutors reported that anti-Semitic discourse is a long-standing problem which still persists in Hungary. In addition, reports received from some NGOs in the preparation of the mission indicated that the already rampant anti-Roma sentiments have been merged with anti-Semitism, including in public statements. In 2010, indications of rising anti-Semitism in Hungary were highlighted with concern by the United Nations Human Rights Committee.

#### **D. Hate speech**

43. During the mission representatives of the OSCE/ODHIR and some NGO representatives drew the attention of the Special Rapporteur to the rise of hate speech in Hungary. In this regard the often virulent and widespread anti-Roma statements in the media, and in public and political discourse were reported. While the Special Rapporteur takes note of the aforementioned provisions of the Criminal Code on the incitement to hatred against national, ethnic and racial groups, he would like to strongly reiterate the importance of ensuring that the laws and their implementation strictly comply with international human rights standards, including article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

#### **E. Extremist political parties, movements and groups**

44. Since the first visit in 1999 of a Special Rapporteur on racism, Hungary has witnessed a strong resurgence of extremist ideas propagated by politicians, public figures and some groups of individuals who encourage racial discrimination and incite racial violence, especially against the Roma minority. The parliamentary elections held in April 2010 confirmed this worrying trend, when the political party named “Movement for a Better Hungary” (Jobbik Magyarországért Mozgalom) received 16.67 per cent of the votes and gained 47 seats in the Hungarian Parliament. As a result it became the third biggest political party in the Parliament.

45. The Special Rapporteur is extremely concerned at the rise of the Jobbik in Hungary and at its openly anti-Roma and anti-Semitic statements. Several interlocutors reported that the Jobbik’s discourse has been focused mainly on Roma, including on the alleged “Gypsy criminality” that needs to be combatted to protect ethnic Hungarians and maintain public order. Some interlocutors highlighted that traditional political parties were not firm enough in condemning such extremist rhetoric, which legitimizes this and aggravates the intolerant climate towards the Roma.

46. The Special Rapporteur is also deeply concerned at reports indicating the presence of police officers in the Jobbik political party. Similarly he is concerned at the growth of paramilitary organizations with racist platforms which target Roma and are reported to have close links with the Jobbik. According to some interlocutors, such paramilitary organizations include the now-disbanded Hungarian Guard established by Jobbik in 2007 and other similar organizations such as the Civil Guard Association for a Better Future and the Magyar Nemzeti Gárda, a new group with the same aims and leadership as the banned Hungarian Guard. They are reported to have harassed, intimidated and attacked Roma in areas inhabited by Roma.

47. The Civil Guard Association for a Better Future, with whom the Special Rapporteur met in Gyöngyöspata, together with the local representative of Jobbik and the local Roma self-government, is reported to have organized public rallies dressed in paramilitary style black boots and uniforms in Gyöngyöspata and Hajdúhadház. The organization is reported to have threatened, harassed and intimidated Roma with weapons and dogs and incited hatred against them. The same organization reportedly organized similar rallies in Zagyvarékas, Békéscsaba, Galgagyörgy, Tatárszentgyörgy, Miskolc, and Sajóbáony. In Gyöngyöspata the Special Rapporteur noted the presence of police officers in areas inhabited by Roma but he also observed that the majority of the Roma inhabitants were still afraid. He met with some Roma victims who expressed serious concern about the prosecution carried out against them in the context of the Gyöngyöspata events. According to the authorities swift and decisive action was taken to prevent the organized intimidation of Roma in Gyöngyöspata. The Government further reported that in response to the events in Gyöngyöspata and Hajdúhadház, the legislation was amended to enable the prosecution and punishment with custodial sentences of these extremist groups. However, according to Roma victims and some NGOs no serious action was taken by the authorities, including the police, to prevent the activities of the Civil Guard Association for a Better Future, nor investigate and prosecute their conduct.

## **F. Migrants, refugees, asylum seekers and statelessness**

48. According to UNHCR, Hungary hosts approximately 700 refugees (mainly Iraqis, Afghans, Somalis and persons originally from the former Yugoslavia) and some 3,200 beneficiaries of subsidiary protection. In 2011, 1,693 asylum-seekers were registered (19.5 per cent less than in 2010), mainly from Afghanistan, Kosovo, Pakistan, Syria, and Somalia. The vast majority of asylum seekers enter the country unlawfully (95 per cent).

49. A number of pieces of legislation have been adopted by the Government to address issues related to refugees, asylum seekers, statelessness and migrants, including the 2007 Act II on the Entry and Stay of Third Country Nationals (Third Country Nationals Act) and the Asylum Act LXXX of 2007 (Asylum Act), both amended by Act CXXXV of 2010. At the institutional level the Office of Immigration and Nationality is responsible for asylum procedures. According to the authorities Hungary has established a new statelessness determination procedure by virtue of the above-mentioned Act II of 2007, which was commended by UNHCR.<sup>13</sup> However, while Hungary has developed good practice in the form of an operational stateless status determination mechanism. The Hungarian Helsinki Committee brought it to the attention of the Special Rapporteur that applicants illegally staying in Hungary are de facto excluded from this procedure since lawful stay in Hungary is a precondition for applying for stateless status.

50. During the mission the Special Rapporteur was also informed that racism, racial discrimination, xenophobia and intolerance against asylum seekers, refugees and migrants, including irregular migrants, still prevails in Hungary. According to some interlocutors negative stereotypes towards them are deeply entrenched among the general public, and asylum seekers and refugees often complain of experiencing racial discrimination and xenophobia on a regular basis, especially in the areas of employment, health, housing and education. Cases of racist and discriminatory behaviour by courts in considering asylum seekers' requests were also reported. Regarding housing in particular, concerns were

<sup>13</sup> A/HRC/WG.6/11/HUN/1, para. 76.

reported by some interlocutors about the situation of homeless refugees, especially the significant number of Somali refugees who are homeless in Hungary.

51. The Special Rapporteur was also informed that matters related to asylum have been mainly considered in the context of the fight against illegal migration and prevention of abuse of the asylum system. As a result more restrictive measures were adopted. In this regard, concerns were expressed about the manner in which the detention policy applying to foreigners, including asylum-seekers apprehended for unlawful entry or stay, has been implemented recently. Some interlocutors pointed out that a significant proportion of asylum seekers and most of the irregular migrants are routinely detained in detention facilities administered by the police. In this regard the harsh conditions of detention of asylum seekers and irregular migrants, including women and elderly persons, was brought to the attention of the Special Rapporteur. The Special Rapporteur is extremely concerned about the reported cases of ill-treatment in immigration detention facilities; the prolonged periods of administrative detention of asylum seekers without access to effective remedies to challenge the detention; and the potential illegal detention of unaccompanied minors. The lack of transparency of the detention regime and practice, and the replacement in the detention facilities of police officers by untrained civil security guards who had reportedly committed abuses in detention centres were reported. It was also reported that judges who decide on detention are mainly criminal law judges who do not have the relevant knowledge and competence on human rights, refugees and asylum seekers law.

## **VI. Conclusions and recommendations**

52. **The Special Rapporteur takes note of the new Constitution which came into force on 1 January 2012. He believes that certain of its provisions deserve review, inter alia, in order to strengthen the protection of the rights of minorities, in line with international human rights standards.**

53. **The Special Rapporteur notes that important steps have been taken by the Government in the fight against racism, racial discrimination, xenophobia and related intolerance. Indeed important legislative, institutional and policy measures have been developed. However the Government has to ensure that all the measures taken lead to an effective outcome that will address the situations of all those experiencing racism, racial discrimination, xenophobia and intolerance in Hungary.**

54. **An important criterion in measuring Government success in this endeavour will certainly be the removal of Roma from poverty, lack of education, unemployment, social exclusion and the elimination of racism, racial discrimination and intolerance against them. To date, Hungary has not succeeded in fully integrating Roma into society. Their living conditions continue to be significantly worse than those of the general population and they face structural and institutionalized discrimination. There is a great urgency to reinvigorate the education of Roma and to change mindsets to develop a more tolerant and inclusive society.**

55. **The lack of adequate implementation of the broad range of initiatives developed and the insufficiency of funding to ensure their effective implementation remain a major challenge. The Special Rapporteur urges the Government to make further efforts to ensure effective implementation of the measures taken, starting at the local level, while ensuring that the necessary human, financial and technical resources are allocated and that minorities and all the relevant actors including civil society are involved. He also recommends the collection of ethnically disaggregated data and statistics in accordance with international human rights standards, including respect for the principle of self-identification.**



## **On national and ethnic minorities**

56. The Special Rapporteur urges the Government to ensure adequate representation of ethnic and national minorities in the Hungarian Parliament. Moreover minority self-governments should be strengthened, including through the allocation of adequate financial, human and technical resources. The Special Rapporteur also recommends that the Government take the necessary measures to ensure that students learning in minority language schools, or studying minority languages in bilingual schools or as a second or foreign language, have sufficient learning hours and access to qualified teachers. He recommends that the Government provide adequate financial resources to bilingual schools.

## **On the situation of the Roma minority**

### **Structural and institutionalized discrimination**

57. The Special Rapporteur encourages the Government to build upon the richness and diversity of its population to develop a more tolerant and inclusive society. In this regard he strongly recommends that the Government invest in education. School classes which are inclusive and representative of the society's ethnic and cultural diversity, unbiased schoolbooks aimed at reflecting with objectivity and accuracy the history of minorities, well-trained teachers and human rights courses are in this respect essential to instil a tolerant and respectful mindset from an early age.

58. Racial discrimination, racism and negative stereotypes against the Roma minority within State institutions, including the police and the judiciary, is a reality that Hungary should not deny. The Special Rapporteur urges the Government to develop regular and mandatory human rights training for State agents including within the police and the judiciary, ensuring that such training includes issues related to racism, racial discrimination, xenophobia and related intolerance. Efforts should also be made to improve relations between the police and Roma to restore confidence, and allow better reporting of racist acts to the police. Proper and prompt investigation of complaints against police misconduct towards Roma should also be ensured.

### **Employment**

59. The Special Rapporteur urges the Government to take all the necessary measures to reduce the high Roma unemployment rate. A first step in this direction is to properly address racial discrimination against Roma in the labour market, and ensure that discriminatory attitudes against the Roma in employment are effectively sanctioned. The Special Rapporteur also recommends that the Government ensure that institutions financed by the State budget employing more than 50 persons and the legal entities in which the State has a majority ownership effectively establish and implement equal opportunities plans and recruit Roma.

60. The Special Rapporteur also urges the Government to ensure decent and qualified jobs for Roma by avoiding addressing their unemployment mainly through public work programmes that have already yielded limited results in reducing the Roma unemployment rate and removing them from poverty and social exclusion. He encourages the Government to adopt more special measures to promote the employment of Roma in both the public and private sectors.

### **Education**

61. The Special Rapporteur recommends that the Government increase efforts to eliminate racial discrimination and segregation of Roma in education in order to ensure an inclusive education system and high quality education for Roma. The Special Rapporteur also recommends that the Government implement more special measures to ensure access to higher education for Roma; strengthen and increase the monitoring of schools to ensure that national policies with respect to desegregation and equal access to education are fully implemented including at the local level; and increase measures to address the problem of school dropout of Roma children. The Special Rapporteur strongly urges the Government to ensure that children who cannot cope with education in an integrated classroom are provided with special assistance, not sent to special schools and step up efforts to reintegrate Roma children currently enrolled in special schools into mainstream schools.

### **Housing and health**

62. The Special Rapporteur recommends that the Government:

(a) guarantee the right of Roma to housing without discrimination as provided in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention) and act firmly against any discriminatory practices affecting them in this area, taking into consideration general recommendation No. 27 (2000) of the Committee on the Elimination of Racial Discrimination on discrimination against Roma and general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights on forced evictions;

(b) Take all the necessary measures to ensure that Roma enjoy the full right to health and health care, and address discriminatory practices among medical professionals, including through further sensitization measures on Roma rights, culture and identity among such personnel.

### **Political participation**

63. The Roma must be effectively empowered to decide on their own interests and future. In this regard the Special Rapporteur recommends that the Government ensure the effective participation of Roma in political and public life and their adequate representation in parliament and political parties. It is important that the Government ensure that the composition and leadership of the National Roma Self-Government truly reflect the Roma minority's choice and interests. The Government is also encouraged to take the necessary measures to ensure that a wide range of Roma organizations and associations be provided with the necessary resources, including financial, to effectively participate in public affairs.

### **Racial violence**

64. The Special Rapporteur recommends that the Government take all the necessary measures to ensure the protection of Roma from violence and provide adequate responses to their security concerns. In this regard the Special Rapporteur recommends that the Government develop a comprehensive national strategy to prevent and combat racial violence against Roma and that ethnically disaggregated data on racist crimes be collected. Prompt, thorough and impartial investigations of racist acts against Roma must be carried out and those responsible adequately prosecuted and sanctioned. Roma victims should be provided with access to effective legal remedies and adequate reparation. Furthermore, law enforcement agents should

be provided with the necessary instructions, procedures and resources to identify, investigate and register racist crimes against the Roma.

### **On anti-Semitism**

65. The Special Rapporteur calls for further vigilance and action from the Government with regard to anti-Semitism and recommends that the Government step up efforts to prevent and eliminate all the manifestations of anti-Semitism, including through a wide range of preventive measures and prosecution when necessary.

### **On hate speech**

66. The Special Rapporteur recommends that the Government take resolute measures to condemn hate speech, including against the Roma. He recalls that, due to the audience they reach and the moral authority they carry, politicians are urged to avoid stigmatization of Roma in their statements and political debates, and to firmly condemn any racist action or discourse against Roma. The Special Rapporteur, while insisting on the need to preserve freedom of expression, also encourages the media to play a more positive role in promoting tolerance, respect, and mutual understanding and to avoid racist, stereotypical and discriminatory reporting of Roma.

67. The Special Rapporteur strongly reiterates the importance of ensuring that the laws and their implementation strictly respect international human rights standards, including article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In this regard the Special Rapporteur refers to the four joint written submissions presented by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the series of expert workshops of the Office of the United Nations High Commissioner for Human Rights on the prohibition of incitement to national, racial or religious hatred.<sup>14</sup>

### **On extremist political parties, movements and groups**

68. The Special Rapporteur is of the view that the rise of the Jobbik political party and the development of extremist paramilitary groups are linked to some extent to the failure to fully integrate Roma into Hungarian society and the difficulty of traditional political parties in dealing adequately with the socio-economic problems, including unemployment, of the Hungarian population. As a result Roma became the main targets of extremist individuals and politicians, who take advantage of the general

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<sup>14</sup> [http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP3Joint\\_SRSUBMISSION\\_for\\_Vienna.pdf](http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP3Joint_SRSUBMISSION_for_Vienna.pdf)  
<http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Nairobi/JointSRSubmissionNairobiWorkshop.pdf>  
<http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/SRSubmissionBangkokWorkshop.pdf>  
<http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Santiago/JointSRSubmissionSantiago.pdf>

discontent within the population and the current economic crisis to blame them for the insecurity and socio-economic difficulties endured by the population.

69. It is urgent to introduce the necessary safeguards against the anti-Roma and anti-Semitic discourse of Jobbik, which flouts human rights including the principles of non-discrimination and equality. In this regard political leaders and political parties should refrain from endorsing directly or indirectly the rhetoric propagated by Jobbik and ensure that respect for human rights and freedoms, democracy and the rule of law be the cornerstone of any programme or activity developed by political parties.

70. Finally while the Special Rapporteur notes the Government's efforts to end the activities of extremist paramilitary organizations, he urges it to take more resolute measures to tackle the phenomenon of extremist paramilitary organizations targeting Roma, including through adequate prosecution and sanction of individuals belonging to such organizations who are responsible for racist violence against Roma.

### **On migrants, refugees, asylum seekers, and statelessness**

71. The Special Rapporteur reiterates the recommendation accepted by the Government during its universal periodic review to establish and implement a comprehensive integration strategy for early stage integration of migrants, refugees and asylum seekers. He recommends that the strategy include specific measures to prevent and eliminate racism, racial discrimination, xenophobia and intolerance against migrants, refugees and asylum seekers, and duly take into account the situation of homeless refugees. In this regard the Special Rapporteur recommends that the Government fully cooperate with all the relevant actors, including civil society and UNHCR.

72. Regarding statelessness, the Special Rapporteur urges the Government to review the provisions of Act II of 2007, especially those provisions establishing legal stay in Hungary as a pre-condition for applying for stateless status, and ensure its full compliance with its international human rights obligations including the 1954 Convention relating to the Status of Stateless Persons, which has been ratified by the Government.

73. The Special Rapporteur urges the Government to take the necessary measures to put an end to the harsh conditions of detention of asylum seekers and illegal migrants, including acts of ill-treatment in detention facilities. He recalls that paragraph 30 of the Durban Programme of Action "urges States (b) to review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States' obligations under international human rights instruments; (d) to ensure that migrants, regardless of their immigration status, detained by public authorities are treated with humanity and in a fair manner, and receive effective legal protection and, where appropriate, the assistance of a competent interpreter in accordance with the relevant norms of international law and human rights standards, particularly during interrogation; (e) to ensure that the police and immigration authorities treat migrants in a dignified and non-discriminatory manner, in accordance with international standards". He further recalls to the Government the recommendations accepted during its universal periodic review to reduce administrative detention of migrants, asylum-seekers and refugees, and only use it in exceptional cases; and to undertake measures aimed at avoiding the extension of administrative detention of asylum-seekers.

74. The Special Rapporteur recommends that the Government ensure that more administrative judges with the relevant knowledge of and competence in human rights, refugees and asylum seekers standards be involved in the current judicial review process of immigration detention facilities. The Special Rapporteur also recommends that the Government ensure that specialized human rights training with a particular focus on the principle of non-discrimination and the human rights of migrants, refugees and asylum seekers is provided to members of the judiciary, including criminal judges, police officers and immigration officials and other interested groups including civil guards working in detention facilities, and social workers dealing with unaccompanied minors. Training with a special emphasis on bridging intercultural and linguistic gaps should also be provided.

### **On the legal human rights framework**

75. The Special Rapporteur recommends that Hungary accede to the international and regional human rights instruments for which it is not yet a party, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

76. The Special Rapporteur calls upon the Government to ensure that the constitutional changes concerning minorities' rights will not weaken the current legal and institutional framework for their protection, especially with regard to their representation and participation in public affairs. Furthermore, in the light of general recommendation No. 30 (2004) of the Committee on the Elimination of Racial Discrimination on discrimination against non-citizens, the Special Rapporteur recommends that all the constitutional provisions restricting certain human rights to Hungarian citizens including the right to education and the enjoyment of social security, be revised to extend equal human rights protection to all individuals residing in Hungary, including non-citizens.

77. The Special Rapporteur also encourages the authorities to strengthen measures to ensure the effective implementation of the Equal Treatment Act and monitor its application closely. The Special Rapporteur regrets that the Criminal Code does not explicitly include a general provision under which racist motivation constitutes an aggravating circumstance. He therefore recommends that the Government explicitly introduces into the Criminal Code a general provision according to which committing an offence with racist motivation or aim constitutes an aggravating factor allowing for enhanced penalties.

### **On the institutional human rights framework**

78. The Special Rapporteur recommends that measures be taken to ensure the Equal Treatment Authority is fully independent of the Government and to provide it with the necessary technical, human and financial resources. The Special Rapporteur also recommends further steps for the development of accessible and understandable awareness-raising measures on the work and competencies of the Authority aimed at the general public. Civil society actors could be major partners.

79. The Special Rapporteur regrets the abolition of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities and encourages the Government to re-establish it in light of the need for an independent body to monitor the promotion and protection of the rights of minorities.

## Appendix

### **List of official meetings**

#### **Executive**

Ministry of Public Administration and Justice (State Secretary for Social Inclusion)

Ministry of Foreign Affairs

Ministry of Interior

Ministry of National Resources

City of Ózd: Office of the Mayor; School visit in Sajóvárkony and meeting with the Director (Name of the school: Sajóvárkonyi Általános Muvelodési Központ)

City of Gyöngyöspata: Office of the Mayor

City of Pécs: Office of the Mayor

City of Mohács: Office of the Mayor

#### **Legislative**

Members of Parliament

#### **Judiciary**

Municipal court in Budapest

Prison visit in Budapest (Fovárosi Büntetésvégrehajtási Intézet)

#### **National human rights institutions**

Office of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities

Office of the Parliamentary Commissioner for Data Protection and Freedom of Information

#### **Others**

National Institute of Criminology

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