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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

HUNGARY

**Concluding Observations of the Committee
on Economic, Social and Cultural Rights**

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of Hungary on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/HUN/3) at its 6th, 7th and 8th meetings, held on 2 and 3 May 2007 (E/C.12/2007/SR.2 and 3), and adopted, at its 23rd and 24th meetings held on 15 May 2007 (E/C.12/2007/SR. 23 and 24), the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party, due on 30 June 1994 and submitted on 29 September 2005, which was prepared in general conformity with the Committee's guidelines, and of the written replies to its list of issues.

3. The Committee welcomes the open and constructive dialogue with the delegation of the State party, which included many experts from various government departments, as well as its frank answers to the questions asked by the Committee.

B. Positive aspects

4. The Committee notes with appreciation the recent adoption of legislative and other measures to combat discrimination and promote equal opportunities for disadvantaged and marginalized individuals and groups in the area of economic, social and cultural rights, in particular:

(a) Act No. 125 of 2003 on Equal Treatment and the Promotion of Equal Opportunities establishing an Equal Treatment Authority, which investigates and decides on individual complaints about discrimination;

(b) The establishment of a Women's Representation Council to coordinate the implementation of Government programmes promoting equal opportunities for women and to review and comment on draft legislation and other measures promoting gender equality;

(c) The National Strategy Report on Social Protection and Social Inclusion for 2006-2008 aimed at eliminating poverty and social exclusion and enhancing the sustainability of the pension system;

(d) The Roma Integration Decade Programme Strategy Plan for the period 2007 to 2015;

5. The Committee welcomes the favourable position that the State party is taking concerning the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

7. The Committee notes that, although the Covenant has been incorporated into the domestic law of the State party, most of the rights recognized in the Covenant are not directly applicable in the courts of the State party.

8. The Committee is concerned that the shared burden of proof under the Equal Treatment Act, requiring the victim merely to establish a prima facie case of discrimination, whereupon the burden of proof shifts to the alleged discriminator, is reportedly rarely applied by the courts. It is also concerned that the low level of resources provided to the Equal Treatment Authority since its inception and the recent reduction in its funding and the number of staff may adversely affect its capacity to deal with an increasing caseload.

9. The Committee notes that, while the Equal Treatment Act and sectoral laws such as the Labour Code and the Education Act, include provisions prohibiting gender discrimination, the State party has not adopted a comprehensive gender equality law.
10. The Committee notes with concern that women continue to be underrepresented in Parliament and in senior positions in the public service.
11. The Committee is concerned about the extremely high unemployment rate among the Roma in the State party and about discrimination against Roma by private and public employers.
12. The Committee notes with concern that, despite special support schemes in place to promote employment opportunities for persons with reduced working capacity, a very high percentage of persons with disabilities is still unemployed.
13. The Committee notes the absence of criminal law provisions specifically addressing sexual harassment in the workplace.
14. The Committee notes with concern that, according to the State party, the net minimum wage is not fully sufficient to cover the subsistence costs of a “single household”.
15. The Committee is concerned about the increase of fatal work accidents in the State party, in particular in the construction and transportation sectors.
16. The Committee is concerned about reports on the inadequate protection in the State party of trade union officers who are engaged in the defence of employees having been dismissed in violation of the labour law.
17. The Committee regrets that the statistical data on social security benefits provided by the State party in relation to personal and material coverage did not enable an assessment of the overall adequacy of the system and the identification of persons and groups who may not be sufficiently protected.
18. The Committee is deeply concerned about the “limited effectiveness of the cash transfer programme” in the State party and about the fact that social assistance levels do not ensure an adequate safety net for, in particular, the disadvantaged and marginalized individuals, families and groups, such as the Roma.
19. The State party notes the absence of criminal law provisions specifically prohibiting domestic violence and spousal rape.
20. The Committee is concerned that the number of women and girls trafficked to, from, and through the State party is not adequately documented and that the State party has not adopted a national action plan to combat trafficking.
21. The Committee is concerned about reports that the State party has a restrictive approach to family reunification of refugees, and that persons authorized to stay on the basis of subsidiary protection have no right to family reunification.

22. The Committee is deeply concerned that one-fifth of the Roma in the State party live in slum settlements, often without access to running water, adequate sewerage or located close to municipal dumpsites, and that Roma are frequently denied access to social housing, e.g. on the ground that they previously occupied accommodation without legal title or as a result of the distribution of social housing by local governments through public auction at high prices. It is particularly concerned about the increasing number of forced evictions of Roma, often without provision of adequate alternative housing, and about the Constitutional Court's ruling that the need to implement eviction orders takes precedence over the right of children not to be separated from their families and placed in the State care system.

23. The Committee is concerned about the limited access to general practitioners and health-care services in the State party, especially in rural areas.

24. The Committee notes with concern that every sixth man and every eleventh woman in the State party has mental health problems and that the suicide rate in the State party is among the highest in the world, especially among women.

25. The Committee is concerned that the average life expectancy of Roma is more than ten years shorter than that of non-Roma, and that Roma are reportedly often denied access to health services, including emergency aid services; segregated in hospitals; and discriminated by health practitioners who allegedly provide medical services of lower quality to them or extort unjustified amounts of money from them.

26. The Committee is concerned about reports on aggressive behaviour and easy access to drugs and alcohol among school children in the State party.

27. The Committee is deeply concerned about the high number of Roma children segregated in separate schools, such as special remedial schools for children with mental disabilities, or in separate substandard "catch-up" classes within schools, and that mainstream schools frequently put pressure on Roma parents to apply for private student status for their children. It is also concerned about the high dropout rate among Roma students at the secondary level and about their low enrolment in higher education.

28. The Committee is concerned about the limited opportunities for minorities, including for the Roma, to receive instruction in, or of, their native language and of their culture.

29. The Committee is concerned that the minority self-governments are insufficiently funded to discharge their responsibilities in the co-administration and co-management of educational and cultural institutions.

E. Suggestions and recommendations

30. The Committee recommends that the State party take legislative and other appropriate measures to ensure the direct applicability of all Covenant rights in domestic courts, that legal and judicial training take full account of the justiciability of these rights, and that it promote the use of the Covenant as a source of domestic law. It draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant and invites it to

include, in its next periodic report, information on court decisions giving effect to Covenant rights.

31. The Committee recommends that the State party ensure that courts apply the shared burden of proof in discrimination cases, in accordance with the Equal Treatment Act, and that the Equal Treatment Authority is sufficiently funded and staffed to deal with its increasing caseload. It requests the State party to provide, in its next periodic report, detailed information on the number, nature and outcome of cases decided by the Equal Treatment Authority in the field of economic, social and cultural rights.

32. The Committee recommends that the State party consider adopting a comprehensive gender equality law promoting equal opportunities for women, in particular in the fields covered by the Covenant.

33. The Committee recommends that the State party adopt temporary special measures, such as statutory quotas, to ensure the adequate representation of women in Parliament and in local elected bodies. The Committee also recommends that the State party undertake a study on the reasons for the under-representation of women in senior positions in the public service and that it take measures to increase their representation.

34. The Committee urges the State party to intensify its efforts to reduce Roma unemployment through specifically targeted measures, including by enhancing professional training and sustainable employment opportunities in communities with significant Roma populations and increasing the number of Roma in the central and local governments. It also recommends that the State party ensure the strict application of anti-discrimination legislation by the courts, local governments and labour offices. The Committee further recommends that the State party take more effective measures to encourage the private sector to provide adequate employment opportunities for the Roma. The Committee requests the State party to collect disaggregated data on unemployment and informal economy participation of Roma, set specific benchmarks to reduce the employment gap between Roma and non-Roma, and include such data, as well as detailed information on the results of the measures taken to improve employment opportunities for Roma, in its next periodic report.

35. The Committee recommends that the State party further intensify its efforts to integrate persons with disabilities into the labour market and the education and professional training systems, to make all workplaces and educational and professional training institutions accessible for persons with disabilities, and to provide detailed information on the results of the National Disability Programme and action plans in its next periodic report.

36. The Committee recommends that the State party adopt legislation specifically addressing and criminalizing sexual harassment in the workplace.

37. The Committee recommends that the State party ensure that the net minimum wage is periodically reviewed and determined at a sufficient level to provide all workers and their families with a decent standard of living, in accordance with article 7 (a) (ii) of the Covenant.

38. The Committee recommends that the State party effectively enforce regulations on safety at the workplace, by increasing labour inspections, informing employees and employers in both

the public and private sectors about their rights and obligations in relation to protection against work accidents, and imposing appropriate penalties whenever such regulations are violated, with a view to reducing the occurrence of, in particular, fatal work accidents. It requests the State party to provide in its next periodic report updated and disaggregated information on the number, causes, and consequences of work accidents and on the penalties imposed.

39. The Committee recommends that the State party strengthen the protection of trade union officers engaged in the defence of employees' rights. It requests the State party to provide detailed information on the regularity of labour inspections, as well as on the number and nature of cases of unfair dismissals and other violations of the right to strike, the sanctions imposed on the employers, and the remedies provided to the victims of such violations.

40. The Committee recommends that the State party provide in its next periodic report detailed information on the categories of workers (i.e. employees and self-employed, domestic, part-time and other specific groups of workers) covered by social security and the benefits, including family benefits, guaranteed to each category of workers, so as to enable an assessment of persons covered and benefits granted. It further recommends that the State party provide detailed information on the public and private pension schemes with regard to funding, coverage and amounts, in particular minimum amounts.

41. The Committee urges the State party to review its regulations on social assistance allowances and raise their amounts in order to better target the most disadvantaged and marginalized individuals, families and groups, such as the Roma, and provide them with a safety net that enables them to enjoy their economic, social and cultural rights. It also urges the State party to establish minimum standards for social assistance operated by local governments to ensure equal treatment for all those in need of social assistance.

42. The Committee recommends that the State party adopt specific legislation criminalizing acts of domestic violence and amend its Criminal Code to explicitly prohibit spousal rape. It requests the State party to provide detailed information on the number and nature of reported cases of domestic violence, convictions and the types of sanctions imposed on perpetrators, and on assistance and compensation provided to victims.

43. The Committee calls on the State party to monitor closely the number of women and girls trafficked to, from, and through its territory; develop a national action plan to combat trafficking in human beings, especially women and girls; provide mandatory training on trafficking for the police, prosecutors and judges; and include in its next periodic report updated information on the number of reported trafficking cases, convictions and sentences imposed on perpetrators, and on the assistance provided to victims.

44. The Committee recommends that the State party review its regulations on family reunification of refugees, with a view to broadening the concept of family members, simplifying and expediting reunification procedures, and protecting the right to family life of all refugees, including persons authorized to stay on the basis of subsidiary protection.

45. The Committee urges the State party to adopt and implement remedial measures relating to infrastructure in Roma settlements, extend the application of the Roma Housing and Social Integration Programme to all communities concerned, effectively enforce anti-discrimination

legislation in the housing sector, refrain from distributing social housing through public auction at high prices; and increase the availability of social housing, in particular for the Roma. It also urges the State party to ensure that the rights of affected individuals, including children, are safeguarded and that alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997) on the right to adequate housing, and to include disaggregated data on the extent of homelessness, the number of forced evictions and arrangements for alternative housing in its next periodic report.

46. The Committee recommends that the State party intensify its efforts to ensure adequate access for all, including the disadvantaged and marginalized individuals and groups, to health-care services, especially in rural areas. In particular, it recommends that the State party promote the recruitment and establishment of general practitioners in rural areas and implement public health prevention programmes, as well as programmes for sexual and reproductive health.

47. The Committee recommends that the State party intensify its efforts to address the socio-economic causes of mental health problems and suicide and strengthen the provision of psychological counselling services at the local level, as well as training of health professionals on the causes and symptoms of depression and other mental health problems. It also requests the State party to include a section on the mental health status of the population in its next periodic report.

48. The Committee recommends that the State party strengthen preventive health-care services and improve public services, such as clean water, sewerage, waste disposal and sanitation, particularly in Roma communities, and increase its efforts to address poor nutrition, chronic stress and other factors contributing to the low life expectancy of Roma. It also recommends that the State party intensify anti-discrimination campaigns and training of public and private health-care providers.

49. The Committee requests the State party to adopt a national plan of action to prevent aggression in schools and to combat drug and alcohol abuse among children, as well as to provide, in its next periodic report, disaggregated and comparative data, on an annual basis, on the results achieved.

50. The Committee urges the State party to take effective measures to end inter- and intra-school segregation of Roma children and to ensure that segregated pupils are mainstreamed into the regular school system without delay; to enforce the prohibition of segregation under the Equal Treatment Act and of limitations under the Education Act on free school choice and on the proportion of severely disadvantaged children per school; to provide effective incentives for integrated education; and to ensure that every application for private student status is reviewed by an independent child protection expert. It recommends that the State party allocate sufficient funds to the free provision of textbooks, mentorship programmes and scholarships for disadvantaged students, in particular for the Roma, with a view to reducing dropout rates at the secondary level and increasing Roma enrolment in higher education. It also requests the State party to provide disaggregated data on enrolment, attendance and dropout rates of Roma at all levels of education, as well as on the extent and the forms of segregation, in its next periodic report.

51. The Committee recommends that the State party ensure adequate opportunities for minorities, including for the Roma, to receive instruction in, or of, their native language and of their culture and, to that end, increase resources allocated to minority language education, as well as the number of teachers instructing minority languages, in cooperation with local governments and minority self-governments.

52. The Committee recommends that the State party ensure that minority self-governments receive sufficient public funding to exercise their cultural autonomy and promote initiatives and programmes in the fields of education and culture.

53. The Committee recommends that the State party take appropriate measures, including education and awareness-raising campaigns, to integrate the values of minority cultures into the national culture, while at the same time preserving the cultural identity of its minorities.

54. The Committee recommends that the State party adopt a national plan of action on human rights and that it proceed with the proposed establishment of an inter-ministerial committee on human rights to coordinate the preparation of periodic reports to human rights treaty bodies, as well as the implementation of treaty body recommendations.

55. The Committee invites the State party to consider ratifying the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

56. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials and judicial authorities, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

57. The Committee invites the State party to update its core document in accordance with the 2006 harmonized guidelines for the preparation of a common core document.

58. The Committee requests the State party to include in its next periodic report a specific section on the results of the measures taken to combat discrimination and enhance respect, protection and fulfilment of economic, social and cultural rights of the Roma under each of the Covenant rights. The Committee further requests the State party to include disaggregated data on an annual basis, as well as specific benchmarks, to enable an adequate monitoring and evaluation of the progress made in its next periodic report.

59. Finally, the Committee requests the State party to submit its combined fourth, fifth and sixth periodic reports by 30 June 2009.
