



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined ninth to twelfth periodic reports of Albania*

1. The Committee considered the combined ninth to twelfth periodic reports of Albania (CERD/C/ALB/9-12), submitted in one document, at its 2693rd and 2694th meetings (see CERD/C/SR.2693 and 2694), held on 4 and 5 December 2018. At its 2703rd meeting, held on 11 December 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission, albeit delayed, of the combined ninth to twelfth periodic reports of the State party.

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

B. Positive aspects

4. The Committee welcomes the adoption, in 2017, of Law No. 96/2017 on Protection of National Minorities, which, among others, eliminates the distinction in domestic law between national minorities and linguistic minorities. The Committee also welcomes the recognition of nine minority groups – Greek, Macedonian, Aromanian, Roma, Egyptian, Montenegrin, Bosnian, Serbian and Bulgarian – under that law.

5. The Committee also welcomes the adoption by the State party of the following legislative, institutional and policy measures:

- (a) Law No. 22/2018 on Social Housing;
- (b) Law No. 111/2017 on Legal Aid Guaranteed by the State;
- (c) The National Action Plan for the Integration of Roma and Egyptians 2016–2020;
- (d) The Social Housing Strategy 2016–2025;
- (e) The Strategy and Action Plan on Gender Equality 2016–2020;
- (f) The National Strategy on the Fight against Human Trafficking 2018–2020;
- (g) The Cross-sectoral Strategy on the Fight against Organized Crime, Illicit Trafficking and Terrorism 2013–2020.

* Adopted by the Committee at its ninety-seventh session (26 November–14 December 2018).



6. In addition, the Committee welcomes the State party's ratification of or accession to the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities, on 11 February 2013;

(b) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 29 May 2013.

Concerns and recommendations

Statistics

7. The Committee regrets that the 2011 census did not provide a realistic picture of the ethnic or ethno-religious composition of the State party. As a result, reliable demographic data, disaggregated by ethnicity, religious practices and languages spoken, are still not available in the State party. The Committee notes the delegation's assurances that a new census will be carried out in 2020 and that the new census law will respect the principle of self-identification.

8. Recalling its revised guidelines for reporting under the Convention (CERD/C/2007/1, paras. 10–12), the Committee recommends that the State party carry out the new census planned for 2020 with full respect for the principle of self-identification, with a view to providing the Committee with accurate information on the ethnic and ethno-religious composition of its population to enable a better evaluation of how different groups living in the State party enjoy their rights under the Convention, and include the results in the next periodic report.

Application of the Convention in domestic legislation

9. Bearing in mind the direct applicability of the Convention in the State party's legal order, the Committee regrets the lack of information on court cases in which the Convention's provisions were invoked before, or applied by, domestic courts (art. 2).

10. The Committee recommends that the State party take appropriate measures, including through training, to ensure that judges, prosecutors, lawyers and law enforcement officials have sufficient knowledge of the provisions of the Convention to enable them to evoke or apply the provisions in relevant cases. It requests the State party to include in its next periodic report specific examples of the application of the Convention by domestic courts.

Implementation of domestic legislation

11. The Committee notes with interest the ongoing legal reforms and welcomes in particular the adoption of the long-awaited Law No. 96/2017 on the Protection of National Minorities. The Committee also notes that secondary legislation, which would enable full implementation of the new legislation, is yet to be developed (art. 2).

12. The Committee recommends that the State party promptly elaborate and adopt the secondary legislation necessary to give effect to the new law on the protection of national minorities, in order to ensure its effective implementation.

National institutional framework

13. The Committee appreciates the information provided on the functioning and activities of the People's Advocate and the Commissioner for Protection from Discrimination. However, it is concerned at reports that the recommendations of these institutions remain unaddressed. The Committee also welcomes the information provided by the State party's delegation that the human and financial resources dedicated to the Commissioner for Protection from Discrimination will be enhanced as of 2019. Furthermore, the Committee notes that the State Committee on Minorities has a new mandate and is being recomposed, following the entry into force of Law No. 96/2017 on the Protection of National Minorities, and that a fund for national minorities is being created. The Committee is, however, concerned at the lack of information on how the State

Committee on Minorities has contributed to the drafting and implementation of national minority policies (art. 2).

14. The Committee recommends that the State party:

(a) Continue taking measures to strengthen the functioning and effectiveness of the Commissioner for Protection from Discrimination, taking into account the Committee's general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention;

(b) Implement the recommendations of the People's Advocate and the Commissioner for Protection from Discrimination;

(c) Provide information in its next periodic report on the functioning and effectiveness of the State Committee on Minorities in fulfilling its new mandate and on activities implemented by or under the supervision of the State Committee on Minorities.

Hate speech

15. While noting that a new anti-defamation "package" is under preparation, which will allow public entities to seek compensation in court, the Committee is concerned at reports of the continuing use of hate speech by public figures, including politicians, in public discourse and the incomplete information on cases prosecuted and convictions obtained so far. The Committee is further concerned about the application of the principle of shifting the burden of proof in cases of hate speech (art. 4).

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

(a) Take appropriate measures to strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including by political figures at the State and local levels;

(b) Effectively investigate, prosecute and punish, as appropriate, acts of hate speech, including those committed by public figures, in particular politicians, especially during election campaigns.

Criminalizing racist organizations

17. The Committee reiterates its previous concern (CERD/C/ALB/CO/5-8, para. 10) at the absence of legislation criminalizing racist organizations and participation in such organizations. The Committee is also concerned at the absence of reliable information on the number of investigations, prosecutions and convictions obtained in cases regarding acts of racial discrimination and in particular those offences dealt with in article 4 (a) and (b) (art. 4).

18. Recalling its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention, the Committee recommends that the State party bring its anti-discrimination legal framework into full compliance with the requirements of article 4 of the Convention and ensure its strict application, in particular declaring illegal and prohibiting organizations that promote and incite racial discrimination. The Committee also recommends that the State party provide in its periodic reports more information concerning decisions taken by the competent national tribunals and other State institutions regarding acts of racial discrimination and in particular those offences dealt with in article 4 (a) and (b).

Roma and Egyptians

19. The Committee remains concerned that Roma and Egyptians continue to face difficulties in the areas of employment, education, health, housing and access to services. The Committee takes note of the information provided in the State party report on the National Action Plan for the Integration of Roma and Egyptians 2016–2020, which identifies six priority sectors: civil registration and access to justice; education and promotion of intercultural dialogue; employment, vocational education and training; health

care; housing and urban integration; and social protection (CERD/C/ALB/9-12, para. 85). While also noting the significant efforts to collect data on socioeconomic indicators, the Committee remains concerned that a strategy for objective evaluation of the effectiveness and impact of the National Action Plan and other special measures seems to be lacking (art. 5).

20. **Recalling its general recommendation No. 27 (2000) on discrimination against Roma and No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party strengthen the implementation of the National Action Plan for the Integration of Roma and Egyptians 2016–2020 and other special measures to combat racism and racial discrimination against Roma and Egyptians in access to employment, education, health, housing and services. It also recommends that the State party reinforce the collection of relevant data and prepare a policy evaluation strategy in order to evaluate the effectiveness of those measures.**

21. The Committee is concerned about the absence of information in the State party report on the situation of women belonging to minorities and about the instances of multiple discrimination to which they may be subject (art. 5).

22. **The Committee recommends that the State party take into account its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination and include a gender perspective in all policies and strategies for combating racial discrimination in order to address the multiple forms of discrimination affecting in particular women in the Roma and Egyptian communities. It also recommends that the State party provide disaggregated statistics on this subject.**

Independence of the judiciary

23. While noting with appreciation that the State party has embarked on comprehensive and wide-ranging justice sector reform, including the vetting of judges, the Committee is concerned about ensuring the independence of the judiciary and its ability to effectively protect victims of racial discrimination. In particular, while the High Council of Justice is being recomposed, the Committee is concerned that its composition currently includes the President of the Republic and the Minister of Justice, and is in fact presided by the former (HRI/CORE/ALB/2012, para. 50) (arts. 2, 6).

24. **Recalling its general recommendation No. 20 (1996) on article 5 of the Convention and No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take the necessary measures to guarantee the full independence and impartiality of the judiciary in line with the Basic Principles on the Independence of the Judiciary and ensure that it is in a position to protect victims of racial discrimination. Specifically, the Committee recommends that the State party ensure that the High Council of Justice does not include in its composition members of the executive.**

Civil registration

25. The Committee takes note of the State party's enhanced measures, including initiatives implemented in cooperation with civil society, to identify Roma and Egyptian children who have not been registered at birth and to provide them with the necessary personal documents. The Committee is, however, concerned at the lack of an overall strategy to deal with this persisting challenge, particularly in the light of families returning from an irregular stay abroad and the increasing number of persons who seek international protection in the State party (art. 5).

26. **The Committee recommends that the State party develop a comprehensive strategy to prevent unregistered births and for the early identification of persons lacking birth certificates and other personal documents, particularly among Roma and Egyptians and members of other minority groups, families returning from an irregular stay abroad, migrants, refugees and asylum seekers, in order to prevent statelessness and ensure access to the rights enshrined in the Convention.**

Housing

27. The Committee is concerned at reports that many members of the Roma and Egyptian minorities have been affected by forced evictions in the context of major infrastructure projects. While welcoming several measures to ensure the right to housing, including the adoption of Law No. 22/2018 on Social Housing, the Committee is concerned about the full application of the safeguards introduced by this new law in the current context of planned evictions in relation to the Tirana ring road project (art. 5).

28. The Committee emphasizes that forced evictions are extraordinary measures that should be resorted to only in conformity with the relevant legislation and should not be based on or result in discrimination against any particular vulnerable group in the society. The Committee recommends that the State party take all measures necessary to guarantee that evictions are carried out in accordance with international human rights standards and to provide remedies and adequate alternative housing to those affected in cases of eviction.

Trafficking in persons

29. The Committee takes note of information provided by the State party's delegation that the legal and institutional framework to combat trafficking has improved, particularly with regard to providing rehabilitation for victims. The Committee is, however, concerned that Roma and Egyptian women and children are disproportionately represented among victims of trafficking, particularly for the purposes of sexual and labour exploitation, as well as forced begging. The Committee is also concerned that more efforts are needed in the areas of the prevention, identification and protection of victims of trafficking and the prosecution of perpetrators (art. 5).

30. The Committee encourages the State party to continue and enhance its efforts to combat the scourge of human trafficking by implementing prevention measures, providing protection, assistance and reparation to victims and investigating and prosecuting perpetrators, including in cooperation with neighbouring States.

Asylum seekers

31. While taking note of statistics provided by the State party's delegation, disaggregated by the nationality of the applicant, on the number of foreigners reaching its borders and those who apply for asylum, the Committee regrets the absence of information on asylum claims granted. Furthermore, while noting that asylum seekers are entitled to non-refoulement, information, legal assistance and a translator, the Committee is concerned at the absence of information on the provision of legal and humanitarian assistance to asylum seekers and on the application of judicial remedies available (art. 5).

32. The Committee recommends that the State party provide in its next periodic report:

(a) **Statistics, disaggregated by nationality of the applicant, on asylum or non-refoulement claims filed and granted;**

(b) **Information on the availability of and access by asylum seekers to appropriate information, interpretation, legal and humanitarian assistance and judicial remedies.**

D. Other recommendations

Ratification of other treaties

33. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

Follow-up to the Durban Declaration and Programme of Action

34. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001), taking into account the outcome document of the Durban Review Conference (2009), and that it include information thereon in its next periodic report.

International Decade for People of African Descent

35. In the light of General Assembly resolution 68/237, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

36. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.

Declaration under article 14 of the Convention

37. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Amendment to article 8 of the Convention

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

Common core document

39. The Committee encourages the State party to update its common core document, which dates to 2012, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

40. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 12 (implementation of domestic legislation), 24 (independence of the judiciary) and 28 (housing) above.

Paragraphs of particular importance

41. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8 (statistics), 16 (hate speech), 20 (Roma and Egyptians) and 26 (civil registration) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

42. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

43. The Committee recommends that the State party submit its combined thirteenth and fourteenth periodic reports, as a single document, by 10 June 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
