



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
6 April 2011

Original: English

Committee on the Elimination of Racial Discrimination

Seventy-eighth session

14 February – 11 March 2011

Consideration of reports submitted by States parties under article 9 of the Convention

Concluding observations of the Committee on the Elimination of Racial Discrimination

Republic of Moldova

1. The Committee considered the eighth and ninth periodic reports of the Republic of Moldova (CERD/C/MDA/8-9), submitted in one document, at its 2073rd and 2074th meetings (CERD/C/SR.2073 and CERD/C/SR.2074), held on 1 and 2 March 2011. At its 2087th meeting (CERD/C/SR.2087), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the combined eighth and ninth periodic reports of the State party and the opportunity thus offered to continue the dialogue with the State party. The Committee also acknowledges with appreciation the State party's submissions (CERD/C/MDA/CO/7/Add.1 and Add.2) on follow-up measures taken with regard to the Committee's previous concluding observations. The Committee also expresses appreciation for the constructive dialogue held with the delegation as well as the oral responses provided to the questions posed by the Committee members.

3. The Committee notes that the Transnistria region continues to be outside the effective control of the State party, which is therefore unable to monitor the implementation of the Convention in that part of its territory (CERD/C/MDA/8-9, paras. 8-11).

B. Positive aspects

4. The Committee welcomes the following legislative and other measures taken by the State party:

- (a) The Asylum Act of 18 December 2008;
- (b) The Law on Foreigners of 24 December 2010;

(c) The 2008-2012 National Programme for the development of an integrated social-services system on the situation of marginalized groups;

(d) The Government decision No. 1512 of 31 December 2008 on the approval of the 2008-2012 national programme for the creation of a comprehensive social services system;

(e) The 2008-2010 Plan of Action for the implementation of the Committee's conclusions and recommendations, of 17 November 2008.

5. The Committee welcomes the information provided by the delegation about the State party's plan to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints and encourage the State party to do so without delay.

6. The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities in September 2010 and of the Rome Statute of the International Criminal Court in October 2010.

7. The Committee also welcomes the ratification by the State party of human rights instruments of the Commonwealth of Independent States and of the Council of Europe, which have direct relevance to the application of the Convention.

C. Concerns and recommendations

8. The Committee takes note of the data provided in the State party's report on the ethnic composition of the population, drawn from the 2004 census. However, the Committee is concerned about the lack of precise and reliable data on the actual ethnic make-up of the population in Moldova, in particular with regard to the Roma minority, as well as on the lack of systematic collection of data on social inclusion and discrimination-related issues and cases. The Committee also regrets that official public reporting of ethnic groups in Moldova lists Roma within the category "Other" despite being a very sizable minority. While noting with interest the information provided about the next census scheduled in 2013, the Committee is concerned that the current data-collection methodology does not give full effect to the right to self-identification. The Committee further regrets that, for official purposes, including in the official registries, there is no possibility to self-identify as "Roma", with only the term "Tsigan" ("Gypsy") being used (art.2).

The Committee recommends that the State party improve its data-collection system on the groups covered by the Convention so as to better evaluate the situation regarding the different minority groups in the State party, determine the extent of manifestations of racial discrimination and assess the efficacy of integration policies, respecting the right to self-identification. The Committee also recommends that the State party provide, in its next report, comprehensive, precise and reliable data on the ethnic composition of the population disaggregated by gender, age, religion, ethnic group and nationality.

9. The Committee notes with interest the recent development with regard to the draft Law on Preventing and Combating Discrimination, which has been transmitted to the Parliament for adoption (arts. 2 and 6).

The Committee recommends that the State party adopt as a matter of priority the Law on Preventing and Combating Discrimination and bring its provisions into conformity with relevant international standards, including the Convention, by guaranteeing the protection of both citizens and non-citizens, ensuring the efficiency and the independence of the enforcement body, and containing provisions on adequate

sanctions and compensation for racial discrimination and a shared burden of proof in civil proceedings.

10. The Committee welcomes various measures taken by the State party to improve its legal framework with a view to combating racial discrimination (arts. 2 and 6). The Committee is however concerned about:

- (a) The lack of effective implementation of the existing anti-discrimination provisions, including articles 176 and 346 of the Criminal Code and the Extremist Activity Law;
- (b) The small number of complaints of acts of racial discrimination lodged with courts and other relevant authorities in spite of persistent reports of de facto discrimination against members of certain minority groups and non-citizens including migrants and refugees;
- (c) The ineffective follow-up to those complaints by the authorities.

Recalling its general recommendation 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:

- (a) **Ensure the proper implementation of the existing anti-discrimination provisions and the effective investigation and persecution of racially motivated offences;**
- (b) **Actively assist victims of racial discrimination seeking remedies and inform the public about legal remedies in the field of racial discrimination;**
- (c) **Assess reasons for the very low number of complaints relating to racial discrimination, including whether it may be due to victims' lack of awareness of their rights, fear of reprisals, limited access to available mechanisms, lack of confidence in the police and the judiciary, or the authorities' lack of attention or sensitivity to cases of racial discrimination;**
- (d) **Provide in the next periodic report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings and by State human rights institutions, including on any reparations provided to victims of such acts.**

11. The Committee, while noting various human rights training programmes organized by the State party for its officials such as the session in Chişinău in December 2008, regrets the limited provision for human rights training for the police, prosecutors and judges (art 7).

The Committee recommends that the State party introduce mandatory training for the police, prosecutors and judges on the application of anti-discrimination legislation and the Convention.

12. While noting with interest the measures recently taken by the State party to strengthen the Parliamentary Advocates/Center for Human Rights of Moldova, the Committee regrets the absence of a national human rights institution fully compliant with the Paris Principles (General Assembly resolution 48/134) in Moldova. The Committee also expresses its concern that the Parliamentary Advocates office has never used the powers under Act No. 1349-XIII of 17 October 1997, including that of petitioning a court for protection of the interests of alleged victims of discrimination (art. 2).

The Committee recommends that the State party consider, in consultation with civil society, the option of establishing an independent national human rights institution fully compliant with the Paris Principles, including by transforming and empowering the existing mechanism so as to conform with the Paris principles. To

that end, the Committee recommends that the State party guarantee the independence of the Parliamentary Advocates office and strengthen its role in the elimination of racial discrimination by effectively using its legal power.

13. The Committee notes with appreciation the ratification by the State party of all fundamental ILO Conventions as well as the improvements in the regulatory framework on non-citizens including the draft law amending the Labour Code which adds “skin colour” and “HIV/AIDS infection” into the list of prohibited grounds of discrimination. However, the Committee remains concerned, in light of the 2008 direct request made by the ILO Committee of Experts on the Application of Conventions and Recommendations (Migration for Employment Convention, No. 97), that migrant workers from Africa and Asia face serious discrimination and are extremely reluctant to bring their cases before national courts. The Committee furthermore expresses its deep concern that non-citizens are subjected to mandatory HIV/AIDS testing and that residence in Moldova is banned in the case of a positive HIV test (arts. 2 and 5).

Taking into consideration the Committee’s general recommendation No. 30 (2005) on discrimination against non-citizens and the International Guidelines on HIV/AIDS and Human Rights, adopted at the Second International Consultation on HIV/AIDS and Human Rights in 1996, the Committee recommends that the State party:

(a) Ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens;

(b) Ensure that when HIV testing is carried out, it does not infringe the principle of non-discrimination;

(c) Take measures to remove restrictions on the entry or repatriation of migrant workers when workers’ illness or infection does not impair their ability to perform the work in question.

14. The Committee notes with deep concern that the right to freedom of religion, especially of persons belonging to ethnic minorities, continues to be restricted in Moldova in spite of various actions taken by international and regional human rights organs (the Human Rights Committee (CCPR/C/MDA/CO/2), para. 25; the Special Rapporteur on freedom of religion or belief (A/HRC/16/53/Add.1), paras.336-361; the European Court of Human Rights, *Masaev v. Moldova*, Application No. 6303/05). Taking into account the intersectionality between ethnicity and religion (arts. 2 and 5(d)), the Committee is concerned at:

(a) The reported cases of discrimination and intimidation against religious minority groups and non-citizens;

(b) Restrictions on the right of freedom of religion as a result of the persistent registration difficulties faced by some religious groups, in particular Muslim groups, and the possible misapplication of technical requirements for registration;

(c) Administrative sanctions applied to individuals belonging to unregistered religious organizations;

(d) Administrative sanctions applied to non-citizens carrying out religious activities in public places for not providing advance notification to municipalities, under article 54(4) of the Contravention Code;

(e) Identity checks of Muslims outside places of worship and reported cases of harassment of Muslims by the police;

(f) The inadequate responses by the authorities to recent anti-Semitic events, anti-Semitic hate speech and vandalism of religious sites (A/HRC/16/53/Add.1, paras. 336-345; A/HRC/15/53, para. 66).

Recalling the State party's obligation to ensure that all persons enjoy their right to freedom of religion, without any discrimination based on national or ethnic origin, in accordance with article 5 of the Convention, the Committee urges the State party to:

(a) **Take measures to prevent acts directed against persons or religious sites belonging to minorities, and in cases where such acts do occur, effectively investigate them and bring perpetrators to justice;**

(b) **Respect the right of members of registered and unregistered religions to freely exercise their freedom of religion, review existing registration regulations and practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private regardless of registration status;**

(c) **Register religious groups who wish to be registered, taking into consideration the United Nations Commission on Human Rights resolution 2005/40 and the practice of the Special Rapporteur on freedom of religion or belief;**

(d) **Take immediate steps to stop practice of arbitrary identity checks by law enforcement authorities;**

(e) **Sensitize the public to the problems relating to anti-Semitism and reinforce its efforts to prevent and punish anti-Semitic acts;**

(f) **Provide, in its next periodic report, information on measures taken in this regard and their impact on de facto exercises of freedom of religion by minority groups.**

15. The Committee, while noting the various measures and initiatives taken by the State party in favour of Roma including the 2007-2010 Action Plan in support of the Roma population, remains concerned about the continued marginalization and precarious socio-economic situation of members of this minority, and the discrimination with which they are faced, including in the fields of education, housing, health and employment. The Committee also regrets the lack of resources to effectively implement the 2007-2010 Action Plan (arts. 2 and 5).

The Committee urges the State party to enhance its efforts aimed at combating discrimination against Roma. In light of its general recommendations Nos. 27 (2000) on discrimination against Roma and 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party ensure that special measures and programmes in favour of Roma, inter alia the new Action Plan for 2011-2014, are designed and implemented on the basis of need, that sufficient resources are allocated and implementation monitored.

16. The Committee, noting the importance of linguistic integration in Moldova and the requirements for the knowledge of the State language and Russian to work in public service (art.5), expresses its concern at:

(a) The persistent difficulties faced in the labour market and in their participation in public administration by persons belonging to minority groups;

(b) The very low level of participation in political life and the limited representation in Parliament of certain minorities, in particular Roma;

(c) The absence of a mechanism for the implementation of article 24 of Act No. 382-XV of 19 July 2001 on the rights of members of ethnic minorities and the legal status of their organizations, under which ethnic minorities are entitled to approximately proportional representation at all levels of the executive and the judiciary (CERD/C/MDA/8-9, para. 102).

The Committee recommends that the State party:

(a) **Extend free training programmes of the State language and official languages, especially the Gagauz language, to those who are willing to learn and ensure the effective implementation of the relevant positive measures including the project “training for linguistic minorities in Moldova”;**

(b) **Ensure greater participation in public life, including in public administration and Parliament, by members of minorities, in particular Roma;**

(c) **Consider establishing a mechanism of the implementation of article 24 of Act No. 382-XV of 19 July 2001 with a view to ensuring without delay proportional representation of ethnic minorities in all levels of the executive and the judiciary.**

17. The Committee is concerned about the lack of acknowledgement of the existence of racial discrimination among some media, politicians and members of religious groups. The Committee regrets the persistence of negative societal attitudes and stereotypes against Roma and other persons of minority ethnic origin (art. 7).

The Committee recommends that the State party increase its efforts, in the fields of teaching, education, culture and information, to combat prejudices, including among public servants, against ethnic minorities such as Roma. The Committee emphasizes the particular role of the education system and the media – and above all the state media – in ending stereotypes and promoting respect for diversity. The Committee urges the political leadership to emphasize publicly the values of equality and non-discrimination. The Committee further recommends that the State party allocate adequate financial and human resources to the Bureau for Interethnic Relations with a view to promoting tolerance and respect for their cultures and history and to fostering inter-cultural dialogue among the different ethnic groups in Moldova.

18. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

19. In light of its general recommendation No. 33 (2009) on 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 in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

20. The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly in its resolution 64/169 of 18 December 2009.

21. The Committee recommends that the State party expand its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.
22. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites General Assembly resolutions 61/148 and 63/243, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.
23. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.
24. Noting that the State party submitted its core document in 2001, the Committee encourages the State party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).
25. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 11, 12 and 14 above.
26. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 13 and 15 and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.
27. The Committee recommends that the State party submit its tenth and eleventh periodic reports in a single document, due on 25 February 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).
-