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少数群体问题独立专家的报告

增 编

对匈牙利的访问 *

(2006 年 6 月 26 日-7 月 3 日)

* 本内容提要以所有正式语文分发。报告本身附载于内容提要的附件，仅以原文分发。

内 容 提 要

少数群体问题独立专家，凯·麦克杜格尔女士根据她的任务于 2006 年 6 月 25 日至 7 月 4 日访问了匈牙利。访问期间，独立专家在布达佩斯举行了多次磋商，访问了佩奇地区的一些罗姆人社区以及其他一些群体，亲自了解少数群体的情况，直接与社区成员协商。

独立专家强调，匈牙利政府表现出了很大的政治意愿，并投入相当多的资源和精力解决广大少数群体的需求和面临的问题。她认为，匈牙利独特的少数群体自治制度对匈牙利许多官方承认的少数群体实现文化自治作出重要贡献。但是在地方一级，由于罗姆社区面临严重的歧视、排斥和贫穷的问题，在这方面有更大的需求，因此这个制度的预期职能改为保护罗姆人文化、身份和语言。

在匈牙利从社会主义过渡到市场经济的困难时期，罗姆人受影响最大。经济衰落和国有企业私有化，使得有相当高比例的在职罗姆人失去工作。全国罗姆人失业率一直远远超过其他少数群体和多数人群体，而普遍存在的歧视和对罗姆偏见，则使他们被排除在劳动市场外的情况更形加剧。

统计数据表明，罗姆人的预期寿命比一般人口的预期寿命少十多年。罗姆人的教育因种族而普遍实行分离教育制，教育机会很少，特别是罗姆人女孩。数千罗姆人无法享受自来水、电或其他基本服务。罗姆人口面临严重的歧视、排斥、极其贫穷。这些问题对罗姆妇女带来特别重的负担，因为她们在维持家庭生活方面承担着重要作用，而且在社会中还因其妇女的地位而须克服强加在她们头上的种种特有的限制。

罗姆问题需要在相当长的一个时期内加以迫切着重注意。独立专家立即关注的是，最近再度当选的政府正在采取步骤改变它以前对罗姆问题的体制重点，更偏向于解决“处于不利地位的群体”的问题的大政策，这将导致在罗姆问题上停滞不前。她着重关注罗姆人在教育、就业、卫生、住房、刑事司法方面的情况，并强调有必要全面解决社会歧视问题和对罗姆人偏见。

独立专家指出，政府必须采取有效的立法和行政步骤，在市政一级监测和落实对国家标准的遵守，落实罗姆人的权利。必须早日采取必要措施，在各级，包括在议会，保证少数人群体，包括罗姆人的充分有效的政治参与，以此作为落实他们权利的一个主要途径。为衡量、监测和纠正种族歧视的情况，迫切需要有按族裔和性别分类的数据。

Annex

REPORT OF THE INDEPENDENT EXPERT ON MINORITY ISSUES

Mission to Hungary

(26 June-3 July 2006)

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Introduction

1. The Independent Expert on minority issues, in pursuance of her mandate, visited Hungary from 25 June to 4 July 2006. During the course of her visit, she conducted extensive consultations with government representatives, civil society organizations, and academic and media institutions and visited the Budapest and Pecs regions. She conducted interviews, including with senior government officials, in order to assess the situation of minorities in Hungary, and gained the views of non-governmental organizations (NGOs) and others working in the field of minority issues through consultations and open discussion forums.
2. The Independent Expert undertook visits to minority communities, including a Roma community in the Pecs region and a German minority community in the Budapest region, to consult directly with community members, local minority self-government representatives and others in order to gain their views and opinions. She undertook visits to kindergartens, schools and community centres, local cultural institutions, and to a Roma housing rehabilitation scheme. She met specifically with women from minority communities, notably the Roma, in order to gain their perspectives on issues related to her mandate and held a dedicated forum for Roma women.
3. In view of the particularly serious situation faced by the Roma minority relative to other minorities in Hungary, the Independent Expert considered that the Roma warranted a particular focus during her visit. A particular emphasis was placed upon Roma issues in consultations, discussion forums and visits, and is reflected in the present report. While focusing on Roma in Hungary, the Independent Expert acknowledges the serious situation faced by Roma Europe-wide. Her focus on Roma in no way reflects a negative judgement as to the relative situation of Roma in comparison with their situation in other European countries. Analysis indicates that Hungary has demonstrated innovation and leadership in its efforts aimed at confronting anti-Roma discrimination.
4. The Independent Expert's evaluation of the situation of minorities in Hungary is based on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereafter "the 1992 Declaration on Minorities") and other relevant international standards, which identify four broad areas of concern relating to minorities globally. These are : (a) protecting a minority's existence, including through protection of their physical integrity and the prevention of genocide ; (b) protecting and promoting cultural and social identity, and the right of national, ethnic, religious or linguistic groups to affirm and protect their collective identity and to reject forced assimilation ; (c) ensuring effective non-discrimination and equality, including ending structural or systemic discrimination ; and (d) ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.
5. The Independent Expert was provided with excellent assistance and cooperation from the Hungarian authorities throughout the planning and conduct of her visit. She also thanks numerous NGOs and academic institutions for their vital assistance, support, information and documentation, which has greatly informed her visit and subsequent report and recommendations. She also benefited from the work of the Council of Europe Secretariat to the Advisory Committee on the Framework Convention on the Protection of National Minorities,

and the office of the Organization for Security and Cooperation in Europe High Commissioner on National Minorities.

6. The Independent Expert regrets the fact that widespread reforms to the institutional structures of the Hungarian Government, including those specifically relating to minorities, were under way during the course of her visit to Hungary. Some institutional changes may therefore not be fully reflected within the present report.

I. MINORITIES IN HUNGARY - RECOGNITION AND DEMOGRAPHICS

7. Hungary officially recognizes 13 national and ethnic minorities, which are : Armenian, Bulgarian, Croatian, German, Greek, Polish, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian. According to the census of 2001, a total of 314,000 people declared to belong to one of these minority groups (out of a total Hungarian population of circa 10.55 million) , although actual numbers are much higher. The Roma are the largest minority group with a Government-estimated population of approximately 600,000 people. Minorities live in about 1,500 settlements throughout the country, and generally constitute a minority even within the settlements they inhabit. The Government records that the 13 recognized minorities speak 14 different languages, due to the Roma using 2 different languages (Romani and Beash).

8. The right of conscience and freedom of religion are safeguarded in Hungary. Individuals, belonging to different national, ethnic, religious communities may freely practise, or refrain from, their conscientious conviction. According to the census of 2001, there are 250 religious groups in Hungary. Until 2006, 146 denominations were registered as a church at the registration court. To establish a church or a religious community as a legal entity requires a representative and 100 individuals declaring the acceptance of the rules of operation.

9. To be considered by the Hungarian Parliament for recognition as a national or ethnic minority, claims must be based on the group having existed in Hungary for 100 years, and 1,000 signatures of minority individuals legally resident in Hungary must be submitted. Claims by the Macedonian minority and the Russian minority for recognition were rejected by Parliament due to failure to meet these criteria. The Government rejected requests by the Chinese Government to recognize a Chinese minority in Hungary. In June 2006 the deadline for submission of signatures by members of Hungary's Jewish community passed without the required signatures, despite estimates that the Jewish population numbers some 100,000 persons.

II. LEGISLATIVE AND ADMINISTRATIVE FRAMEWORK FOR MINORITY RIGHTS IN HUNGARY

A. Key legislation and monitoring bodies

10. Since 1990 the Governmental Office for National and Ethnic Minorities (ONEM) , a key element of the institutional framework to address minority issues, has been in charge of elaborating and coordinating the Government's minority policy. The Hungarian Parliament adopted the comprehensive Act LXXVII on the Rights of National and Ethnic Minorities in 1993. The Act declares the right to national and ethnic identity as a universal human right and the special individual and collective rights of national and ethnic minorities as fundamental freedoms to be respected and enforced.

11. The 1993 Act includes the collective right to establish minority self-governments for officially recognized minority groups, with the aim of ensuring a suitable framework for the cultural autonomy of minorities. Since 1994, the election of members of national and local minority self-governments has taken place every four years. The number of minority self-governments operating at the local level on 1 November 2004 was 1,827, with a total number of 7,772 elected representatives.

12. The “national minority self-government” is the body which represents the minority at the national level. Legislative and State administrative bodies are required to consult the national minority self-government on issues that affect the minority, and they have the right of veto in legislation concerning traditional historic minority settlements and monuments and core teaching materials used in minority public education.

13. The office of the Parliamentary Commissioner for National and Ethnic Minorities Rights (Minority Ombudsman) was established in conformity with the provisions of the Constitution and Act No. 59 of 1993. This independent institution is empowered to investigate complaints regarding abuses of minority rights and to initiate general and individual measures to achieve remedy. The Minority Ombudsman seeks to work in cooperation with the newly established Equal Treatment Authority (see paragraph 14 below) and plays a critical role in enforcing the ban on discrimination, despite important limitations to his powers. The private sphere and the judiciary do not fall within the Minority Ombudsman’s jurisdiction, limiting possibilities to consider complaints related to private sector employment and the criminal justice system.

14. Act No. CXXV on Equal Treatment and the Promotion of Equal Opportunities was adopted by Parliament on 22 December 2003 (entering into force at the end of January 2004), inspired by Hungary’s obligations for European Union accession in May 2004, and has assisted in filling a gap in Hungary’s legislative framework. The Act lists 19 factors that would constitute discrimination either of a direct or indirect nature and is applicable to both public and private institutions and organizations. Comprehensive anti-discrimination legislation was also a primary recommendation of the Committee on the Elimination of Racial Discrimination (CERD), in its consideration of the report submitted by Hungary at its sixty-first session in 2002.

15. The 2003 Act requires all government institutions and other entities with over 50 per cent State ownership and over 50 employees to adopt an Equal Chances Plan, although this requirement does not extend to totally private enterprises and foreign-owned companies. Reports have suggested lack of progress by government institutions in this regard, while local authorities “can” adopt such programmes. These programmes seek to analyse the situation of disadvantaged groups and establish steps to be taken to have a positive impact and to create equal opportunities. The Act makes clear expectations that affirmative action programmes should be implemented at all levels and explicitly changes the operative norm from “the banning of negative discrimination” to “the requirement of equal opportunities”.

16. The government body responsible for monitoring enforcement of this Act, the Equal Treatment Authority (ETA), has functioned since early 2005 and had considered circa 900 cases as at June 2006, some 30 per cent relating to Roma. Following a complaint this body is required to complete its procedures within 75 days (45 if minors are affected), significantly

reducing the time taken to reach a finding in discrimination cases. Findings of violation of the Act can result in a requirement to cease discriminatory treatment and/or the imposition of a financial penalty (paid to the State) , and findings of violations can be made public. The ETA does not have authority, for example, to require a violating employer to hire a person who has been discriminated against, or to impose punitive damages. It is the stated desire of the ETA to achieve friendly settlements between parties.

B. International standards

17. In 1995 Hungary ratified two key documents of the Council of Europe regarding minority protection : the Framework Convention on the Protection of National Minorities, and the European Charter for Regional or Minority Languages. Hungary has ratified the 1961 European Social Charter and several of its protocols, but it has not yet agreed to be bound by the Revised European Social Charter of 1996 and has also not ratified the additional protocol making possible collective complaints under the Charter mechanism. This is of particular concern, given the serious problems faced by the Roma minority in a number of Charter areas.

18. Of particular relevance to minorities, Hungary has ratified the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of Discrimination against Women. Hungary is obligated to report on a regular basis to the relevant monitoring bodies, and has a good record of reporting.

III. THE GENERAL SITUATION OF MINORITIES AND FUNCTIONING OF THE SYSTEM OF MINORITY SELF-GOVERNMENT

19. According to data of the Hungarian Central Statistical Office, the social indicators of 12 out of the 13 officially recognized minority communities (Armenian, Bulgarian, Croatian, German, Greek, Polish, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian) are similar to those of the majority population. The Government considers therefore that, from a socio-economic viewpoint, the effective integration of these 12 minorities in Hungary is complete.

20. With regard to the preservation and promotion of cultural and language identity, the system of minority self-government provides minorities with finance to achieve a high degree of cultural autonomy in some cases. Meetings between the Independent Expert and Presidents of the Slovak and Croatian minority self-governments, together with a visit to a German minority community, demonstrated that the system offers significant benefits for some minorities in the development of cultural institutions and services, and the teaching and preservation of minority languages.

21. Funding based on a tender system has provided essential grants to assist in establishing such facilities as libraries, museums and heritage centres, theatres, research and educational institutions, and media and publishing outlets, and to engage in activities of a cultural nature, for example youth camps and exhibitions. Problems have been encountered due to the high level of financial and administrative dependence of local self-governments upon the national "parent" bodies, and an inadequate basis for allocation of funds, leaving some unable to function

effectively. However, recent amendments to the funding system should allow a budget allocation for all local minority self-governments based on a number of established criteria.

22. State funding is often insufficient to fulfil the full cultural and educational requirements of minority communities. However, some well-integrated minorities operate income-generating activities including publishing enterprises and training facilities, and have supplemented the overall funding available. Such activities have also created employment opportunities for some communities.

23. A visit to the German minority community and school in Solymar in the Budapest region revealed a generally high level of satisfaction with the system of minority self-government, and a harmonious and enabling relationship with municipal authorities. Community representatives noted that following significant historical difficulties for the German minority - deportation of many families in the post-war period and restrictions on language use - the present system has assisted in maintaining key elements of minority culture and identity and proved extremely valuable to the community.

24. In education, the system of minority self-governments has enabled funding for the teaching of and in minority languages at primary and secondary levels. According to the regulations, both local and national minority self-governments are entitled to take over a local minority school if they conclude an agreement with the local municipal council. Competition for limited funds was however noted as a problem that has created tensions and resulted in schools achieving only limited progress in minority language education, in terms of the hours of teaching available and the subjects taught. Concerns were expressed that plans to consolidate schools would have further detrimental effect on minority language teaching.

25. In recognition of difficulties encountered by small minority communities and municipal authorities in regard to the provision of minority language education, Act LXXIX of 1993 on Public Education as modified by Act LXVIII of 1999 offers a system of “complementary minority education” which makes participation in minority education possible for minorities that do not have a minority school due to low numbers of children. Students attending normal school education are entitled to special additional courses to study their minority language and culture. This instruction is recognized and the certificate achieved entitles students to credits to assist them to enter higher education. Extra-school courses called “Sunday schools” also constitute a special form of minority language education organized by national minority self-governments, with financing from the Ministry of Education.

26. Abuses of the system of minority self-government have been recorded, including cases where non-minority individuals have acquired positions within, or actually established, minority self-governments for financial and political gain, in what has been termed “ethno-business”. Amendments to the 1993 Act on National and Ethnic Minorities, requiring registration of persons belonging to minorities in order to vote and stand for election to minority self-governments, aim to address such problems, although complaints continue to be raised by minorities. Amendments also allow minority self-governments to take over certain institutions, including schools, with a view to enhancing their ability to fulfil minority language teaching requirements.

27. Anti-Semitism is considered by some observers to have been a consistent feature of Hungarian public life in recent years, and part of political discourses of the Hungarian right, sometimes in coded, although sometimes in explicit form. However, by comparison with the Roma, for example, accusations of widespread hostility against Jews have not been seen to result in systemic exclusion or discrimination in sectors such as employment. Sporadic incidents and the activities of the far right, including neo-Nazi marches and vandalism of cemeteries, have created tensions and anxiety amongst the Jewish community.

IV. THE SITUATION OF THE ROMA IN HUNGARY

A. Existence and identity

28. The general situation of discrimination, exclusion and anti-Roma prejudice remains cause for serious concern in Hungary. Based on social and economic indicators and statistical surveys, and in common with their situation across Europe, Roma remain the most deprived group with respect to education, employment, health and housing and suffer disproportionately high levels of extreme poverty. In response to this situation the Government has implemented a number of policy measures, often of an innovative nature.

29. Three major Roma groups exist in Hungary, the “*Magyar Cigany*” or Hungarian Gypsies, the Vlachs and the Beash. The *Magyar Cigany* are considered the most integrated of Hungary’s Roma communities and constitute probably around 80 per cent or more of Hungary’s total Roma population, many living in and around the Budapest region. The Vlachs, originally from Romania, number around 100,000 and are considered culturally very different, often maintaining traditional, patriarchal communities headed by a single male community leader. The Beash are the smallest Roma community, estimated to number around 40-50,000. There are completely or predominantly Beash communities in the south-west region of the country. Government estimates put the Roma population at up to 600,000, although some NGOs working on Roma issues believe the actual figure to be considerably higher.

30. Aspects of Roma identity and culture, including traditional Roma languages, have suffered serious decline to the point of vanishing in some communities. The Government considers that approximately 80-85 per cent of the Roma population have lost the full use of Roma languages, partly a result of “assimilationist” policies pursued under communism and a lack of opportunities within the formal education system to learn or be taught in Roma languages, culture and traditions.

31. In 2002, the Socialist-led Government introduced a positive policy to recruit Roma professionals to senior positions and departments dedicated to Roma-related issues in relevant ministries, reflecting a mainstreamed, yet targeted approach to Roma issues, identified by the Independent Expert as a valuable example of “good practice”. However, following re-election in 2006, the same Government has favoured the incorporation of Roma issues, without differentiation, into a broader institutional and policy framework to address the problems of “disadvantaged groups”. This restructuring is widely perceived by Roma representatives as damaging to prospects for informed and appropriate policy to address the unique problems faced by the Roma, which clearly distinguish them from other socially or economically disadvantaged groups.

32. Hungary's desire to join the Euro-Zone by 2010 is considered to be fuelling widespread budgetary cuts and institutional downsizing, with the aim of reducing Hungary's budget deficit and meeting criteria for Euro-Zone entry. While recognizing the potential long-term positive effects and opportunities created by economic growth resulting from accession to the European Union and future Euro-Zone entry, due to persistent discrimination in the labour markets, the Roma will likely be the last to benefit from new employment opportunities. The urgent situation of the Roma warrants continued dedicated attention and funding by Government institutions, sufficient to ensure effective and sustainable solutions.

33. The Independent Expert held a forum for Roma women and interviewed women regarding their experiences and opinions. Women are central to Roma families, bearing much of the burden of childcare and maintaining traditional Roma culture and identity, while also often fashioning coping mechanisms for their families when facing hardship. As such they are deeply affected by the consequences of discrimination and the impact of poverty, and their experiences and voices are vital to understanding the full extent of the problems. Roma women commonly face multiple or "intersectional" forms of discrimination due to their status as both Roma and women.

34. Roma women described concerns related to fundamental issues of hunger, low income, housing, unemployment and their children's schooling. Other issues such as domestic violence and trafficking were considered important but many expressed their inability to deal adequately with such problems because of the all-consuming demands of day-to-day survival for themselves and their families. When Roma women are victims of domestic violence, discrimination against them as Roma makes unviable the recourse that non-Roma women might have to law enforcement, judicial sanctions or shelters. Access to, and knowledge of services for women remains an important obstacle for Roma women, and blockages in regard to the implementation of national policy at the municipal level exacerbates this. Issues related to child marriage in some sectors of the Romani community, are also lacking adequate policy measures.

35. Roma women are likely to face exclusion from employment opportunities equal to that experienced by Roma men and are further disadvantaged by patriarchal attitudes within the larger society. Women are generally paid less, and for Roma women "the doors are often closed and we are not even able to demonstrate our skills". During the forum, Roma women highlighted that Roma women with nursing or teaching qualifications, for example, have been unable to find jobs largely due to widespread discrimination.

36. The Independent Expert welcomed the report of Hungary to the Committee on the Elimination of Discrimination against Women (CEDAW) in 2006. This report highlights the generally disadvantaged situation of Roma women, although regrettably it fails to provide disaggregated data to fully reveal the extent of the problems faced, or to fully elaborate policies and programmes to address the specific needs of Roma women.

37. Within Hungary's universalist approach to tackling discrimination (avoiding the targeting of special groups) , Roma women's issues fall within broader initiatives in the field of gender. Roma women expressed their view that due to the particular circumstances of discrimination, and multiple-discrimination, such general measures are inadequate to meet their needs. The Independent Expert welcomed new gender initiatives in relation to employment, education,

housing, domestic violence and rape, however, she agreed that without a targeted approach these would fail to meet the needs of Roma women.

B. Roma political participation

38. Roma are very poorly represented within the national Government and only three Roma Members of Parliament (representing the main opposition party) were elected in 2006 to the 386-member Parliament. The governing coalition has no Roma MPs and there is considered to be a general lack of political will to field Roma representatives as political candidates amongst all political parties, despite competition for Roma votes. Proposals to reduce Parliament by 2010 to between 200-289 members, may further reduce the possibilities for Roma representation according to Roma commentators.

39. Under the provisions of the Constitution and the 1993 Act LXXVII on the Rights of National and Ethnic Minorities, there is a requirement to ensure the representation of minorities within Parliament. However no mechanism for the representation of minorities has been established since the transition period and a solution is long overdue. The Independent Expert supports the opinion of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, that the Government should draw inspiration from systems used in other countries and in this regard recalls articles 6 and 7 of the 1992 Declaration on Minorities relating to inter-State cooperation.

40. Current Roma MPs were elected as mainstream party representatives. Although a Roma political party, *Roma Összefogás Párt* (Party for Roma Cooperation) did field candidates in recent elections, it achieved a poor percentage of the votes cast. Uniquely amongst European Union countries, Hungary has two Roma women Members of the European Parliament. Domestically, at all but the lowest levels of minority self-government, Roma women are underrepresented. A higher percentage of Roma women play leadership roles in the minority self-government at the local settlement level where there are few if any resources, but nevertheless, an expectation that they will address the community's social problems.

41. The system of minority self-governments established 999 local Roma self-governments in 2002 increasing to 1,118 following 2006 elections. Support given to the National Roma Self-Government in 2006 was 820,000 euros with an additional 254,000 euros for the functioning of institutions under their management. However, at the local level, due to higher priority needs of communities facing severe discrimination, exclusion and poverty, the system has largely been diverted from its intended function to preserve Roma culture, identity and language.

42. The failure and neglect of municipal authorities to fulfil their social and economic responsibilities for which they are State funded, have left Roma self-governments to address pressing issues beyond their originally designated function. Many face pressure to act as social service providers, which is in actuality the responsibility of municipal authorities. Roma self-governments lack the resources or capacity to provide the solutions required by Roma communities, and conflicts, including inter-community conflict, can result. The Independent Expert stressed that the system was not intended as a vehicle for confronting urgent social and economic problems.

43. There is a need to clarify the competencies and jurisdictions of minority self-governments. Efforts to amend legislation at the national level to increase the authority of local minority self-governments have reportedly been blocked or weakened by mayors who also serve as members of Parliament. A welcome initiative to start in November 2006 requires that Presidents of minority self-governments be ex officio members at meetings of municipal authorities, allowing them to raise issues directly with the competent authorities.

44. The minority self-government system does provide a useful structure, with electoral legitimacy, which can be a voice for Roma community concerns. Roma can progress within the system of minority self-government from the local to potentially the county and national levels. It also offers a training ground for political participation and an incentive and motivation towards wider Roma political activity into mainstream political structures. In 2006, at the national level, the highest number of candidates for minority self-governments were fielded by two Roma minority organizations. Government amendments to the 1993 Act on National and Ethnic Minorities seek to eliminate an anomaly in the original legislation that allowed non-minorities to stand for elected positions and to exercise a franchise in elections for minority self-governments. However, a registration process in order to vote and to stand for election has been criticized on the grounds that Roma are reluctant to identify themselves as such for official purposes because of memories of historical persecution, including genocide in Europe. Additionally, many Roma consider themselves poorly served by current political mechanisms and see little advantage in cooperation. By the 15 July 2006 registration deadline, 106,341 Roma voters had registered as such.

C. Discrimination

45. The Independent Expert considers that widespread discrimination and anti-Roma prejudice exist within Hungarian society, resulting in exclusion in all walks of life and significant political, social and economic marginalization. She expressed particular concern regarding the effects of discrimination in the fields of education, employment and housing, addressed separately in the present report.

46. Despite increasing growth and opportunity generally in Hungary, the situation of the Roma is not improving, and may be worsening due to a widening gap between mainstream society and the Roma. In the period of transition from communist rule, Roma suffered disproportionately from the effects of reform. Discrimination and prejudice significantly increased as Roma faced long-term unemployment, poor service provision and access to education, and consequent negative stereotyping by wider society. The long-term consequences of discrimination and exclusion have resulted in a belief expressed by many Roma, that their situation is unlikely to improve.

47. Allegations of widespread discrimination within the health-care system and social services are cause for concern. Discriminatory practices, including reports of segregated maternity wards for Roma women in some hospitals, and a high incidence of discriminatory treatment by medical staff have been cited as influencing Roma not to seek medical assistance in hospitals. Roma women also expressed serious concern at the disproportionate removal of Roma children into institutions on arbitrary grounds or on the basis of poverty. Municipal authorities can take a child without a court decision, and Roma women stated that the only way to gain

redress or appeal the decision with the local authority was via judicial remedy about which many Roma are uninformed.

48. A 2002-2003 study by the Hungarian Helsinki Committee considered issues of racial discrimination against Roma in the criminal justice system and confirmed practices of racial profiling by the police. Research considered 1,147 court files and found discriminatory practices, notably in police stop and search policies. These findings suggest that the disproportionate numbers of Roma prison inmates may partly be attributed to discriminatory practices. Roma are only 5-6 per cent of the population, however, they are estimated at between 30 and 40 per cent of inmates.

49. Efforts by civil society groups to conduct anti-discrimination training for the judiciary are welcome. The activities of the Minority Ombudsman and the Hungarian Helsinki Committee to investigate possible discrimination in criminal justice have, however, been hampered due to the judiciary falling beyond the jurisdiction of the Minority Ombudsman, and public prosecutors commonly refusing to allow access to files.

D. Poverty

50. The Roma in Hungary are disproportionately affected by severe poverty. A 2003 World Bank report states that 40.3 per cent of Romani households in Hungary live in absolute poverty compared to only 6.9 per cent of general Hungarian households, while Hungary's 2004 Millennium Development Goals (MDG) report, *Reducing Poverty and Social Exclusion*, states that by the end of the 1990s, 62 per cent of Roma families lived on less than half the median income (p. 20). According to a United Nations Development Programme (UNDP) and International Labour Organization (ILO) survey in 2002, more than half of Roma children live in households which regularly go hungry.

51. The Independent Expert has established within her initial report (E/CN.4/2006/74, para. 64) that minority groups that face widespread discrimination or exclusion are much more likely than other groups to be impoverished. The poorest communities in almost any region tend to be minority communities that have been targets of longstanding discrimination, violence or exclusion. Mainstreamed and targeted efforts to reduce poverty are essential to efforts to promote the full range of civil, political, social and economic rights for minority communities.

52. Poverty as faced by the Roma in Hungary is both a cause and a manifestation of the diminished rights and opportunities available to the members of that community. Poverty in this context involves more than just a lack of income or a daily struggle for basic sustenance. Roma are generally less able to participate effectively in political decision-making or to access mechanisms of justice when their rights are violated. They suffer from unequal access to education, health care and employment.

53. Life expectancy rates are 60 years for Roma, compared to a national average of 72.3, while infant mortality rates are high. These are disparities which the Independent Expert considers to be a direct consequence of poverty. Furthermore a serious shortage of some 126 general medical practitioners in Roma areas, suggests that many may have little or no essential primary medical care services. Excluding Budapest, 18.6 per cent of Hungary's Roma live in a settlement without a local doctor.

54. Social welfare benefits are available upon application and are important in alleviating poverty. However, it is likely that due to lack of information and inadequate coverage of an effective social worker system in disadvantaged areas and isolated settlements, a relatively high percentage of Roma are failing to apply for full benefits to which they are entitled.

55. Hungary's 2004 MDG report usefully highlights the Roma's disproportionate experience of poverty. However, a major obstacle to measuring the magnitude of poverty, discriminatory treatment and social exclusion affecting Roma is Hungary's failure to date to generate and make available disaggregated data in fields such as education, health care, housing, and social services. Such data is essential to formulating adequate policies to confront both specific problems, and the wider situation of poverty affecting Roma.

56. According to the Government, the Hungarian Central Statistical Office is responsible for regularly collecting and publishing data on the situation of the different population groups in Hungary with respect to their income, education levels, poverty levels and other social and economic data. Reportedly under the Government's interpretation of Hungary's data protection law, gathering data according to ethnicity is illegal in Hungary. It is clear that if disaggregated data has been gathered by the Government it has been done on an inconsistent basis.

57. The European Union has affirmed that data protection rules apply to personal data, not to aggregate data about groups, nor data disaggregated by ethnicity or other criteria. The European Union's social inclusion process imposes a range of requirements on Governments to produce accurate data on the situation of marginalized groups.

E. Education

58. Urgent attention is required to fully address the education needs of Roma children, including ensuring access to quality education, curriculum and language issues, and the specific situation of Roma girls regarding education. Significant efforts by the Government to address segregation and discrimination are commended by the Independent Expert, however, they have to date achieved only limited impact despite high levels of funding and prioritization of this issue.

59. Hungary's third periodic report to the Committee on Economic, Social and Cultural Rights (EC/12/HUN/3, para. 598) states that almost all Roma children now complete eight classes of primary school, a significant improvement over the rates of only 26 per cent and 75 per cent at the beginning of the 1970s and 1990s respectively. However, very few progress to achieve a secondary school leaving certificate. Roma are 50 times less likely to receive a college or university diploma than non-Roma and less than 1 per cent hold higher education certificates.

60. Post-communist Constitutional provisions entrenched local government authority in a number of important areas including education, creating a stumbling block for national efforts to address disparities in education between Roma and non-Roma children. To date, no Government has been able to achieve amendments to the Act on education that would wrest even limited powers from local authorities. While the national Government faces some limitations in its influence on local authorities, it is considered not to have been robust enough in its efforts to

enforce its national education integration policy. Furthermore, there is no effective independent monitoring and evaluation system within Hungary and schools are under no obligation to accept or invite independent inspectors even if recommended by the national Government.

Segregation in education

61. One Roma woman commented that : “Roma children are being robbed of their future by segregation in education.” The vast majority of children attend primary schools that are segregated with respect to Roma and non-Roma students. Eliminating segregated schooling at the primary level has become the priority objective for creating access to quality education for Roma. This important imperative adopted by the national Government has been the focus of resistance by many parents and local “majority” governments.

62. Resistance has taken a number of forms including : “white flight” to communities without Roma populations within the school districts, labelling Roma children as mentally disabled and diverting them to separate schools or separate tracks within majority schools, designating Roma as “private students” who need not attend classes, and even co-opting the Roma minority self-government structure in order to neutralize its ability to block local efforts to evade desegregation initiatives of the national Government.

63. The system of “free choice” established by the Constitution has been used as a mechanism for segregation in the school system. Parents can decide not to send their children to certain schools, and schools in other districts were free to make decisions as to which students to accept from outside their catchment area. Amendments to the Education Act in 2005 offer useful potential to assist in combating “free choice” as a vehicle for school segregation, since schools will be required to accept “disadvantaged students” first and to guarantee that a certain balance is maintained in the student body. This would avoid the “tipping point” phenomenon whereby increases over a certain percentage of Roma students would drive the best teachers to abandon the school and non-Roma parents to withdraw their children.

64. Another vehicle to achieve segregation is that Roma children are disproportionately placed in separate schools or classes for the mentally or learning disabled, regardless of their actual intellectual abilities. The Commissioner for the Integration of Disadvantaged and Roma Children of the Ministry of Education has stated that while 2 per cent of non-Roma children are in special needs schools for children classified as “slightly mentally disabled” , this figure is 20 per cent amongst Roma children. Children are tested prior to entrance to the primary school system, at which stage Roma children are more likely to be filtered into such special schools. While attendance of kindergarten is important to early educational progress, estimates suggest that a high percentage of Roma, usually those living in smaller or isolated settlements, lack kindergarten places. Moreover 10-11 per cent of Roma children never attend kindergarten although, according to the Act on Public Education, one year is compulsory for every child before they start school. On a positive note, new policies have been conceived to make it harder to fail children in the first three years of schooling, assisting disadvantaged children to catch up.

65. Financial motivations at the municipal level may work to perpetuate segregation and Roma exclusion from mainstream education. The State gives to municipalities higher grants on a per capita basis for children labelled slightly mentally disabled. However, without effective independent monitoring, there is often no evidence that extra funds are spent on the special needs

schools, which are widely regarded as substandard with poor facilities and low teaching standards. Research groups suggest that the numerical intake of children into special needs schools remains constant year-on-year, suggesting a system based on quotas and institutional maintenance, rather than on the specific education needs of disabled children.

66. As part of its Action Plan for the Decade of Roma Inclusion 2005-2015, focusing on education, employment, health and housing, the Hungarian Government has provided financial incentives to local governments to assist in desegregation of schools. However the take-up has been poor and serious abuses of the system have been reported. For those authorities that fail to put in place desegregation measures, according to the Equal Treatment Act and recent judicial decisions, no penalties have been imposed and their core State funding remains intact.

67. A widely cited recent judicial decision on school segregation found the Miskolc Municipality, in its role as Education Authority for Hungary's second largest city, to be maintaining segregation of Roma children in primary schools where they are taught in separate buildings and receive lower quality education. A legal action brought in June 2005 focused on seven schools which were "administratively and financially" merged but in practice maintained physical segregation. In June 2006, the Debrecen Appeals Court overturned a first instance judgement, in finding that Miskolc maintained the segregation of Roma children, violating their right to equal treatment. Importantly the Court agreed that not only active, but passive conduct could lead to a violation of the Equal Treatment Act.

68. In Jászladány in 2002 the municipal government actively segregated Roma and non-Roma children through the creation of a private foundation school (occupying half of the existing school building) excluding Roma children. This was partially achieved by manipulation of the system of minority self-government in order to neutralize its powers of veto. In the Roma minority self-government elections, the mayor's wife, considered by community members to be non-Roma, stood as a candidate and was elected president. Until reforms instituted in July of this year, non-minorities could participate as candidates and the electorate in contests for minority self-governments. In this capacity, she supported the foundation school, thus allowing it to be registered.

69. The Equal Treatment Act bans segregation in schools and the Equal Treatment Authority has the power to bring legal cases against local authorities in cases of segregation. However, a finding of violation, even by the Constitutional Court, is not matched by sufficient penalty to prevent continuation of the offence or to act as a deterrent. In the *Miskolc* case, the Appeals Court concluded that, beyond a finding of violation and an order to publicize its finding via the media, it could not require Miskolc to actively engage in implementing a desegregation plan.

Education of Roma girls and women

70. Hungary's 2006 report to the Committee on the Elimination of Discrimination against Women (CEDAW) demonstrates that some 35-40 per cent of Roma women have not completed primary school education. The Independent Expert expressed her concern in particular over the educational situation of Roma girls, both in regard to the discriminatory educational environment and attitudes within Roma communities that further restrict the participation of girls in education.

71. Policy measures must take into account the different obstacles faced by girls, and the specific concerns of parents, for example in relation to situations where children must travel to schools in neighbouring localities. The persistence of rigidly defined traditional gender roles within Roma communities was highlighted as a factor seriously restricting access of Roma girls to full education possibilities. The high proportion of Roma girls leaving education at an early age requires focused attention. A system of “second chance schools” offers an opportunity for those who have become mothers at an early age, to continue education by accommodating childcare needs. The Independent Expert commends such initiatives as examples of “promising practice”. Government statistics also reveal a predominance of female students benefiting from a scholarship programme for Roma students.

Roma scholarship programme

72. The Government’s Roma scholarship programme¹ is highlighted by the Independent Expert as offering Roma students increased opportunities to progress within the education system by reducing the financial burden upon disadvantaged families. In the academic year 2005/06, 1,562 Roma received a scholarship. Moves in 2005 towards “post-financing” scholarships, requiring students to be reimbursed tuition fees at a later date, may restrict opportunities for many potential Roma students. Additionally examples were given of students excluded from their studies by administrative difficulties. With adequate safeguards and monitoring to protect against abuse by non-Roma, the scholarship system is considered an example of “good practice”.

F. Employment

73. The Roma minority face widespread discrimination in employment contributing to disproportionately high unemployment rates. According to the Public Foundation for European Comparative Minority Research, in 2006 only 29 per cent of the male Roma population between 17 and 75 are employed. The European Roma Rights Centre (ERRC) highlights that 64 per cent of Roma interviewed stated that they had suffered direct racial discrimination in hiring procedures, and that Roma were eight times more likely to be unemployed than non-Roma. In some areas, near total exclusion of Roma from the labour market is partially attributable to a dramatic consequence of racial discrimination. Many Roma are compelled to find work in the grey economy, offering low wages, and no job security or related benefits in sectors including construction and forestry. Hungary’s recent economic growth has had no significant impact on Roma unemployment, due to widespread discrimination.

74. According to civil society analysis, while nearly all were employed during the communist era, from the late 1980s through the early 1990s, approximately 40 per cent of employed Roma lost their jobs, compared to approximately 10 per cent of the majority population. Post-communist reform resulted in privatization or decline of nationalized industries and subsequent job loss, most affecting low or unskilled workers and those facing discrimination.

¹ The Public Foundation for Hungarian Gypsies gives scholarships for Roma pupils, based on ethnic criteria, and a separate programme of the Ministry of Education called Útravaló provides support to socially disadvantaged children and their mentors based on social criteria.

75. Analysis of the employment situation amongst Roma women has been frustrated by the general lack of gender perspective within labour market studies, and national policy on Roma issues has lacked a specific gender perspective. It is estimated that an additional 25 per cent of Roma women stay at home to care for the household or children. High levels of unemployment amongst Roma women are also driven by poor levels of education and multiple or intersectional forms of discrimination.

76. A dangerous legacy of long-term and widespread unemployment amongst Roma communities is a lack of working role models for Roma children and poor levels of motivation amongst Roma families to expend scarce resources on education when they perceive a future of unemployment. Hungary's MDG report indicates that 50 per cent of Roma children live in households without any active earners.

77. Numerous cases of anti-Roma discrimination in employment have been catalogued and legal cases have been brought recently under the 2004 Equal Treatment Act and via the Equal Treatment Authority and the Minority Ombudsman. However, findings of discriminatory practice by employers have not resulted in penalties adequate to act as a deterrent against future discrimination. To date anti-discrimination legislation has largely failed to impact significantly on discrimination against Roma in the labour market.

78. In response to this serious situation, the Hungarian Government has funded a number of employment initiatives and targeted labour market programmes over recent years with varying degrees of success. Such schemes include training and skills development initiatives, projects to assist Roma through employment agencies, expansion of public works programmes, and a Social Land Programme. In addition, in 2003 the Hungarian Ministry of Economy and Transportation launched a programme to aid micro, small- and medium-sized Roma business ventures, encourage entrepreneurship and facilitate Roma employment. Between 2003-2005 approximately 2 billion forint (7 million euros) were invested into Roma businesses and 400 new jobs created. According to the Government, in 2006 the amount allocated to the same purpose has been increased by 25 per cent.

G. Housing

79. Housing has been described by one observer as the biggest emergency in Hungary in the post-communist era. Roma are disproportionately housed in substandard accommodation, in some cases detrimental to health. The Independent Expert witnessed first hand families in such circumstances. UNDP states that 46 per cent of Roma households are without basic amenities. Homelessness, affecting an estimated 30,000 people in Hungary according to NGO statistics, also disproportionately affects Roma and should be addressed as a matter of urgency.

80. Forced evictions of Roma in Hungary are a problem requiring government attention and improved legislation and policy. About 10,000 people are currently threatened with eviction in Budapest, many of them Roma. In the post-communist reform era, autonomous but poorly financed local authorities raised funds by selling public housing resulting in one of the lowest public housing stocks in the region. Rental accommodation is often beyond the means of Roma families surviving on benefits, who often default on rental payments and are subsequently vulnerable to eviction.

81. Targeted forced evictions of Roma in the context of neighbourhood gentrification plans and authorities deliberately paying benefits late so that Roma families default on rent payment, have been reported. Instances have been documented and legal cases brought regarding activities to restrict Roma from purchasing or moving into houses in non-Roma localities. In one instance, with the alleged sanction of a local mayor, community members acted to seriously damage a house that a Roma family was due to occupy. Other tactics to exclude Roma include local authorities purchasing houses from public funds rather than allowing Roma families to purchase, or offering higher amounts to sellers than prices agreed with Roma families.

82. The Independent Expert welcomes initiatives to address the housing needs of some disadvantaged Roma settlements through rehabilitation schemes. The Government recently funded nine Roma settlements to upgrade housing, one of which (*Kisvaszari*) was visited by the Independent Expert. This project resulted in the building of new housing for the most in need and the refurbishment of existing houses for others, dramatically improving living conditions for some families. Funding restrictions have resulted in rehabilitation programmes being limited in number and scope and failing to include proposals for complementary measures in the areas of local employment and education. Inter-community conflicts have arisen due to limitations in resources resulting in a selection process of those families to benefit from the schemes.

83. Under a government benefits policy Roma families with two children currently receive a grant of 2,400,000 forint (US\$ 11,000) towards adequate housing, doubling to 4,800,000 for families with four children. However, it is also widely considered by NGOs that there is a housing crisis for Roma families, and the Independent Expert witnessed large families who had been rehoused only as part of a separate and limited programme of settlement rehabilitation. Analysis is required to ensure that housing subsidies to which Roma are entitled are being claimed and delivered in a timely manner, and are sufficient to provide adequate housing.

84. It is evident that the Government's efforts to provide adequate legal protection to individuals have not been sufficient with regard to housing. The Government has not yet ratified key provisions of international law, most notably the Revised European Social Charter. In addition, the Government has removed a number of previously existing protections against forced evictions. It is clear that Roma would benefit significantly from improvements to general law in the field of housing rights.

V. CONCLUSIONS AND RECOMMENDATIONS

85. Having widely consulted, assessed documentary information, and collected and analysed the views of various parties and stakeholders, the Independent Expert concludes that the Hungarian Government has demonstrated a high degree of attention and significant political will to addressing the unique needs of and problems faced by minorities.

86. The Independent Expert is required by her mandate to identify best practices by States and in this respect highlights a number of legislative and policy initiatives undertaken by the Government. The Independent Expert believes that the 1993 Act on the Rights of National and Ethnic Minorities provides an innovative and dedicated approach to minority issues. Hungary's system of minority self-governments, based on this Act, is a "promising practice" and a valuable contribution to cultural autonomy. It should however be monitored closely to ensure that it

functions effectively and in accordance with its stated purpose. She notes in particular Act No. CXXV on Equal Treatment and the Promotion of Equal Opportunities, which provides a comprehensive and valuable legislative framework on anti-discrimination.

87. The body charged with monitoring implementation of the Act, the Equal Treatment Authority, is considered to represent a “promising practice” that offers the potential, through rigorous application and enforcement of the Act, to significantly impact upon the incidence of discrimination in Hungary and encourage the development of affirmative action programmes throughout the public sector and in those areas of the private sector covered by the Act.

88. Equally, the Independent Expert considers the establishment of the Parliamentary Commissioner for the National and Ethnic Minorities Rights (Minority Ombudsman) as “good practice” and congratulates the Parliamentary Commissioner for work undertaken in this capacity. She encourages collaboration and coordination between these institutions. Furthermore, government initiatives in the field of micro-financing of Roma business ventures represent “positive practices” and such programmes should be continued.

89. The Independent Expert makes the following conclusions and recommendations :

(a) The Independent Expert considers the system of minority self-governments to be a valuable contribution to efforts to enable cultural autonomy for 13 minority groups in Hungary. Care should be taken, however, to make clear that the minority self-governments’ system is not seen as a substitute for full and effective participation in the “majority” political apparatus or as a mechanism through which municipal governments may evade responsibility to guarantee fundamental economic and social rights ;

(b) The Government of Hungary should seek to adopt, without further delay, measures to ensure the effective political participation of underrepresented minorities including the Roma in Parliament as provided for in Hungary’s Constitution. Full and effective participation in national and regional political structures, as well as Roma representation within key government ministries, is considered essential to future efforts to protect and promote the rights of Roma and other marginalized groups ;

(c) The Government of Hungary should ensure consultation with and the full and effective participation of minorities including the Roma in all decisions that affect them, and in the planning, design, implementation and evaluation of policies and programmes in respect of minority issues ;

(d) The Government should take steps to clarify the relationship between local minority self-governments and municipal “majority” governments to emphasize the primary responsibility that rests with municipal majority governments for meeting the social welfare needs of minority communities, including health care, education, housing and social benefits ;

(e) In recognition of the extreme poverty faced by a disproportionate number of the Roma population, a governmental institution should be established with responsibility for coordinating the work of different ministries and institutions to ensure coherent and coordinated approaches to poverty reduction, particularly with targeted efforts with respect to the Roma minority.

90. The Independent Expert considers that activities of the newly re-elected Government to restructure its previous institutional focus on Roma issues, including dedicated departments in a network of the most relevant ministries, in favour of a broad-based policy to address disadvantaged groups, alongside widespread budgetary cuts and downsizing, will lead to an erosion of the progress made to date on Roma issues. The problems faced by Roma require urgent and focused attention, including affirmative action policies, for a considerable period.

The Government of Hungary should review and reverse its policy of institutional reform and restructuring of government departments which is diminishing the focus of attention on Roma issues in key ministries. Roma-targeted policies should be continued and strengthened along with the recruitment of Roma professionals into key government posts relating to Roma issues and policy. This is highlighted as a previous best practice by the Independent Expert.

91. A comprehensive anti-discrimination law and a newly established Equal Treatment Authority to handle complaints were welcomed by the Independent Expert as valuable new additions to Hungary's legal standards and enforcement mechanisms. However, limitations in the powers of the Parliamentary Commissioner for the National and Ethnic Minorities Rights (Minority Ombudsman) and the Authority have circumscribed the impact that these mechanisms have had to date. Further, in the absence of positive legislation placing specific responsibility for implementation of law and policy on identified government bodies, judicial interventions with regard to discrimination will go no further than a finding of violation. Without such positive law, the courts have been reluctant to issue orders for compliance.

(a) Amendments to existing legal provisions or new provisions should clarify the responsibility of specifically identified government agencies to implement law and policies relating to non-discrimination and equality. Such positive legislation would give licence to the judiciary to elaborate directives (corrective remedies) for rectifying situations found to be in violation of statutes or the Constitution.

(b) The Equal Treatment Authority should be empowered to impose specific corrective actions upon entities found in violation of the Equal Treatment Act, to impose punitive damages and to vigorously champion the undertaking of affirmative action programmes in all of the public and private sectors. Resources available to the Authority should be increased to match the dimensions of the problems experienced in Hungary.

(c) The Equal Treatment Authority should be fully independent from the Government, and the role and powers of the Parliamentary Commissioner for the National and Ethnic Minorities Rights (Minority Ombudsman) should be strengthened.

92. Hungary's post-communist constitutional arrangements entrenched significant autonomy for municipal authorities in areas such as education. This has thwarted the national Government's efforts to gain broad-based compliance with national policies on issues such as school desegregation. The Independent Expert noted that the Government must take effective steps to monitor and enforce compliance with national standards and fulfilment of rights of Roma at the municipal level.

93. The situation of multiple discrimination faced by Roma women presents specific challenges, including in the fields of education, employment, health care and housing, which require targeted attention and dedicated resources within the relevant ministries and local and regional authorities. Attention to Roma issues only within the context of a wider policy framework on gender and women's rights issues will fail to meet the needs of Roma women or protect and promote their rights, freedoms and opportunities.

The full and effective participation of Roma women is an essential component of Government and civil society efforts to address their issues. The early establishment of an advisory body on Roma women's issues to the Ministry of Social and Labour Affairs should be considered as a means of gaining the views and experience of Roma women and assisting in the planning, design, implementation and evaluation of policy with regard to Roma women.

94. The Independent Expert highlighted particular concern over the situation of Roma in the fields of education and employment, as well as the need to comprehensively address the widespread societal discrimination and anti-Roma prejudice manifest in other sectors relating to social and economic rights. With respect to these sectors, the Independent Expert makes the following recommendations.

Education

95. **While the government policy with respect to desegregation must be commended, it is clear that the current approach based on financial incentives is grossly inadequate to match the non-Roma citizen resistance at the municipal level.**

(a) The State must devise effective measures to fulfil its obligation to guarantee compliance with its national anti-discrimination and equal treatment legislation, its Constitution and its international legal obligations to eliminate discrimination. It must put in place effective dissuasive sanctions that attach to relevant identified authorities if compliance is not realized. Consideration should be given to the withdrawal of funding from schools that fail to integrate according to their legal requirements ;

(b) The free-choice system for parents and the ability of schools to freely select or exclude students has been an engine to generate segregation in Hungary's public schools. The Independent Expert welcomes recent initiatives to limit "free choice" in ways that would create and sustain a healthy balance of ethnic diversity in public schools and equal access to the highest possible quality education for all students. Such measures should be maintained and vigorously enforced ;

(c) The Government must also initiate a system of compulsory independent monitoring of schools to ensure that national policies with respect to desegregation are fully implemented at the municipal level.

96. The current practice of labelling young Roma children as mentally disabled without justification based on the child's intellectual capabilities is an unfortunate ruse to create segregated schools and classrooms. The practice is a serious violation of the rights of the child, discriminatory against Roma and has massive negative impact on the lives and future life chances of the targeted children.

(a) This system should be abolished and legal sanction brought against those authorities continuing this practice ;

(b) Culturally and linguistically appropriate assessments of learning abilities should be developed by nationally recognized professionals in consultation with professionals from minority communities to replace the current testing process that has resulted in the disproportionate targeting of Roma students for schools and classrooms for the mentally disabled. Students who have already been tested should be reassessed immediately. A national plan, implemented at the local level with full involvement of parents, should be established and independently monitored to ensure that the legitimate special needs of identified students, including Roma, are met in the most appropriate manner ;

(c) The Independent Expert greatly welcomes government initiatives such as the "Sure Start" programme, to support Roma and other disadvantaged students from the earliest age. However, urgent attention is required to address the current shortfall in kindergarten places for Roma children particularly in isolated rural settlements ;

(d) Initiatives aimed at assisting disadvantaged students, including afternoon schooling and extra-curricula activities are welcome. Such measures should be extended and adequately funded to take into account the serious extent of discrimination faced by the Roma at all levels of the education system, and to assist Roma children to complete secondary education ;

(e) An affirmative action policy in regard to access to higher education, including via the Roma scholarship scheme, should be maintained and expanded to encourage Roma to complete higher education courses. Revisions to the financing and administration of the scholarship programmes, including the introduction of "post-financing" have created financial and administrative barriers for some students and should be reviewed ;

(f) Roma communities should be encouraged, including through a targeted public awareness campaign and through the social worker system, to realize their full obligations to the education of both boys and girls and to encourage school attendance ;

(g) All currently certified teachers and all currently in institutions of teacher training should receive training on pedagogical approaches for ethnically diverse student bodies. Included should be specific training :

- (i) In working with children from disadvantaged backgrounds ;**
- (ii) On how to help non-minority children overcome their racial prejudice and resentment ;**
- (iii) On how to deal with hate speech in the classroom.**

Employment

97. In order to fashion appropriate policy initiatives, the Government must more proactively confront the important factor of racial discrimination that operates against Roma in the labour market.

(a) The Government should robustly enforce and monitor the provisions of the Equal Treatment and Promotion of Equality Act which requires public organizations, including government offices, of more than 50 employees to establish and implement an equal opportunities plan and to recruit Roma workers. This legislation should be extended to all private and foreign owned organizations.

(b) The equal opportunities plans should include specific goals and timetables for corrective measures and implementation should be proactively monitored and evaluated on an annual basis by the Equal Treatment Authority. Their implementation should be evaluated based on a results framework, that is, to what extent there has been a change in the profile of the workforce. Achieving an ethnically balanced workforce should be the responsibility of the employer.

(c) The Equal Treatment Authority should use a “carrot and stick” approach to motivate employers to comply ; using its authority to investigate and impose penalties where they find non-compliance and finding ways to offer technical and financial assistance where that would be an incentive.

(d) Sophisticated employment training programmes that target disadvantaged communities are welcome and should be expanded by government and private employers. Training should be for skilled work as well as unskilled, and should be paired with job placement services that include placement for people with vocational or secondary school education.

(e) The Government should put a particular focus on outreach to the more than 30 per cent of jobless Roma women for employment training and job placement.

Housing

98. Regarding housing, the Independent Expert makes the following recommendations :

(a) A government-funded rehabilitation programme for Roma housing should be continued and expanded to address the urgent housing needs of many communities. This scheme should include wider community rehabilitation initiatives, including the provision of contracts to Roma businesses, and the training and employment of community members ;

(b) The Government should remedy gaps in current legislation leading to housing rights violations against minorities. The Government should : (i) without delay, ratify relevant international standards including the Revised European Social Charter ; (ii) provide domestic law recognition of the right to adequate housing ; and (iii) improve domestic law protections to tenants, in particular protections against forced eviction.

99. The Independent Expert also made recommendations regarding other social services :

(a) An independent investigation into the functioning of child protection services should be undertaken to enforce national guidelines and criteria, and effective mechanisms to regulate and monitor child protection services at the local level ;

(b) Urgent steps are required to ensure adequate coverage by general medical practitioners, and to address the current serious shortfall in the number of general practitioners, particularly working in disadvantaged and rural Roma settlements and with Roma communities ;

(c) Adequate provision of a network of qualified social workers, including via recruitment and training of Roma and those experienced in Roma issues should be undertaken urgently as an essential measure to ensure full knowledge of, and access to, key social and health services and benefits for Roma communities ;

(d) A government-sponsored publicity campaign using appropriate media should be conducted as required to assist in the process of raising public awareness of services and benefits particularly to disadvantaged Roma communities.

Collection and use of disaggregated data

100. In terms of collection and use of disaggregated data, the Independent Expert makes the following recommendations :

(a) The collection of data disaggregated by ethnic group as well as along gender lines is recommended as an essential means of revealing the full extent of social and economic problems experienced by different ethnic groups, and to assisting in the development of appropriate and effective policy and practice ;

(b) The Government should undertake confidence-building and awareness-raising measures amongst the Roma, and other minority groups, to promote participation in voluntary data collection, including census registration, and allay fears that data collection will be used as a further means of continuing discrimination.

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