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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION  
AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States Parties  
under article VII of the Convention

Addendum

ROMANIA

[3 November 1980]

GE.80-13781

In her capacity as State party to the International Convention on the Suppression and Punishment of the Crime of Apartheid, Romania observes and applies minutely the stipulations of this international legal instrument. Romania's vigorous condemnation of the apartheid policy and practices, her firm stand against racism and racial discrimination had characterized the policy of the Romanian State long before the endorsement of the respective Convention by the General Assembly, on 30 November 1973. This has been proved repeatedly by the sustained activity carried out by Romania within the United Nations, the specialized agencies, at governmental and non-governmental conferences, favouring the adoption of efficient measures conducive to the elimination of apartheid. Romania declares herself firmly in favour of the implementation of the resolutions adopted by the United Nations and other international fora, aimed at fighting apartheid, and actively takes part in the efforts aimed at strengthening the international co-operation in view of eliminating this scourge.

At national level, the Romanian legislation contains provisions apt to secure the prevention and punishment of any forms of racial discrimination. These legal provisions have been enacted prior to the International Convention on the Suppression and Punishment of the Crime of Apartheid which Romania ratified with the Decree of the State Council No. 254/1978, published in the Official Bulletin of the Socialist Republic of Romania, No. 67 of 17 July 1978.

I. As regards the legislative, judiciary, administrative or any other kind of measures that give effect at the domestic level to the provisions of article II of the Convention, it must be pointed out that article 17 of the Constitution stipulates that "The citizens of the Socialist Republic of Romania, irrespective of nationality, race, sex or religion are guaranteed equal rights in all fields of economic, political, juridical, social and cultural life. The State guarantees equal rights to citizens. No limitation of these rights and no distinction in their exercise is allowed on grounds of nationality, race, sex or religion. All acts aimed at establishing such limitations, nationalist-chauvinistic propaganda, incitement to racial or national hatred are punished by law".

At the same time, in the Penal Code of the Socialist Republic of Romania are classified, and punishable, as crimes, acts of the kind defined in the International Convention on the Suppression and Punishment of the Crime of Apartheid, such as:

(a) Abuses committed in office through the limitation of certain rights, that is limiting by an official of a citizen's use or exercise of his rights or creating of a state of inferiority for the citizen on grounds of nationality, race, sex or religion (article 247);

(b) Nationalist-chauvinistic propaganda, consisting in inciting to racial or national hatred (article 317);

(c) Fascist propaganda (article 166);

(d) Genocide (article 357), that is committing one of the following acts for the purpose of destroying wholly or in part a collectivity or national, ethnic, racial or religious group: killing or causing serious bodily or mental harm to the members of the collectivity or group; inflicting on a collectivity or on a group conditions of life or a treatment calculated to bring about its physical destruction; imposing measures intended to prevent birth within the collectivity; forcibly transferring children of a collectivity or group to another collectivity or group. The text of this article also provides for the punishment of conspiracy aimed at committing genocide as well as attempts to genocide.

For committing the crimes covered by articles 247 and 137 of the Romanian Penal Code penalties range from six months to five years of prison. The law also provides for 15 to 20 years of prison or the death penalty for those committing one of the acts defined in article 357 of the Penal Code.

The Romanian criminal legislation also contains provisions to cover article III of the Convention. Thus it sanctions the participants, that is persons contributing to one of the actions stipulated by the Penal Code, as authors, instigators or accomplices.

According to the decisions adopted by the 7-9 December 1977 National Conference of the Romanian Communist Party, among the measures aimed at improving the legislation is working out a new penal code and a new code of penal procedure. In order to reach full concordance with the obligations assumed by Romania under the Convention, the respective stipulations from these drafts are examined by the teams responsible for working out the new codes.

Closely related to the constitutional provisions, and particularly significant, are the stipulations of article 2 of the Romanian Citizenship Law (Law No. 24/1971), according to which the quality of a Romanian citizen is acknowledged without any limitation or restriction whatsoever on grounds of nationality or race, and those of article 1 of the Law on Foreigners (Law No. 25/1969) which mentions that in Romania, persons who are not Romanian citizens enjoy the same rights as the Romanian citizens - except for the political rights. Therefore they are not subject to any discrimination, being protected against any racial discrimination.

The Romanian legislation contains no provision discriminating on grounds of race, nationality, sex, religion or other grounds. On the contrary the fact deserves mention that the stipulations of the Constitution are reaffirmed and developed in some of the most important laws, the following among them:

- The Labour Code, article 2: "All the citizens of the Socialist Republic of Romania, without any limitation or discrimination, on grounds of nationality, race, sex or religion, are granted the right to work, being given the possibility to work in the economic, technico-scientific, social or cultural domains, according to their propensities, professional training and aspirations, to the needs of the entire society".

- The Law of Education and Instruction (Law No. 28/1978), article 2, paragraph 1: "The citizens of the Socialist Republic of Romania have a right to education without any distinction of nationality, race, sex or religion and without any other limitation that might become discrimination".

- The Health Protection Law (Law No. 3/1978), article 2, paragraph 1: "The State secures protection and strengthening of health to the entire population, irrespective of nationality, race, sex or religion, as well as free medical assistance under the conditions of the law".

- The Electoral Law (Law No. 67/1974), article 2: "The elections of deputies to the Grand National Assembly and to the people's councils are based on the fully equal rights of the citizens, without any discrimination on grounds of race, nationality, sex or religion".

It is also in the spirit of fully equal rights that are organized the legal remedies for persons that consider their rights as being infringed upon, permitting them to complain to the competent State authorities with a view to re-establishing legality, obtaining reparation and sanctioning the guilty ones. The Codes of penal procedure, of civil procedure, the law regarding the court judgement of the complaints by those whose rights were infringed upon by illegal administrative acts, the law on receiving, examining and solving the requests, intimations and suggestions of the citizens, etc., make no discrimination on this line.

Listing the apartheid crime in the context of the genocide offences and at the same time in the category of offences against peace and mankind (title XI of the Penal Code) with all the consequences deriving from such a qualification is in tune with the spirit of the Convention and with the very provisions of article I thereof.

Also worthy of mention is the fact that the Romanian criminal law adequately sanctions in the case of apartheid practices too, the instigators and the accomplices and when necessary, the concealers and supporters.

The fact should also be stressed that the law classifies conspiracy as a crime when aimed at committing offences, the penalty for this being compounded with the penalty stipulated for other offences if the conspiracy was followed by another offence.

The above-mentioned penal texts, although not having the character of special legislation regarding apartheid practices, contain, to a rather large extent, the acts mentioned in the Convention and are apt to discourage the commission of such crimes.

Particularly significant is the fact that the Romanian judiciary practice is not faced with crimes of apartheid.

II. As to the legislative, judiciary and administrative measures, or measures of any other nature, adopted to effect the stipulations of article IV, subparagraph (b), article III and article XI of the Convention, the following deserve mention:

(a) The Romanian legislation contains stipulations making it possible to prosecute, to bring to trial and punish persons responsible for or accused of, the acts defined in article II of the Convention, whether or not such persons reside in territory of the State in which the acts were committed or are nationals of that State or of some other State or are Stateless persons. On this line, the stipulations regarding the application of the penal law, "ratione loci" permit to sanction such acts, whether or not committed on Romanian territory, by any person. If the acts are committed outside Romanian territory by a foreign citizen or by a Stateless person that does not reside in the territory of Romania, the law is applied provided that the act is stipulated as offence too by the penal law of the country where it was committed and the offender finds himself in Romania (articles 3, 4 and 6 of the Penal Code).

(b) As was pointed out in the comments under item I, there are stipulations in the Romanian law that sanction all the participants in any action that is defined in article II of the Convention. The Romanian Penal Code also classifies as criminal the activity of favouring the offender (article 264).

(c) The Romanian legislation (Law No. 4/1971 regarding extradition) provides for the possibility of granting extradition, with a view to prosecuting, bringing to trial or executing the penalty, of persons guilty of having committed the offences mentioned in the comments under item I of the present report.

III. Regarding the legislative, judiciary, administrative measures and measures of other nature, taken to implement the stipulations of article IV, subparagraph (a), of the Convention, it should be pointed out that in Romania the activity for preventing offences is carried out permanently both by the judiciary bodies, by other competent bodies and by civic organizations (trade unions, co-operative organizations, youth, women, social-cultural organizations, etc.), thus securing a wide-scale action in the field of education apt to prevent all infringements of law, including such acts as those defined by the Convention.

According to Decree No. 468/1971, a wide-scale action is carried through in Romania for popularizing legislation. Both the Decree ratifying the Convention and the text of the Convention have been published in the Official Bulletin, in Romanian and Hungarian, and in the Compendium of Laws and Decrees, which is issued in mass editions, at hand for the population of the entire country.

Mention should also be made of the ample use of the educational and information media for shaping public opinion in the spirit of combating all forms of racial discrimination and for exposing apartheid policies and crimes in South Africa.

IV. The Socialist Republic of Romania is largely and actively participating in the international co-operation for repressing and eliminating the crime of apartheid. In this respect mention should be made of Romania's contribution to working out certain resolutions within the United Nations and other fora, regarding the condemnation of apartheid, or the implementation of previous resolutions in the same field. Romania strictly applies the sanctions decided by the United Nations against South Africa for her apartheid policy. Romania takes part in the efforts aimed at ensuring the success of international, governmental and non-governmental meetings dedicated to the struggle against apartheid, including the 1978 World Conference to Combat Racism and Racial Discrimination.

After the ratification of the Convention on the Suppression and Punishment of the Crime of Apartheid, Romania actively continued promoting her stand in support of the struggle for the eradication of this scourge. Significant examples in this respect are the viewpoints Romania expressed during the sessions of the General Assembly of the United Nations and of the Economic and Social Council regarding the struggle against apartheid, Romania's participation in the celebration of the International Anti-Apartheid Year, and her contribution to the debate at the 1980 World Conference of the United Nations Decade for Women of the item regarding the consequences of apartheid on the status of women in South Africa and Namibia.

V. As regards the information requested on the identity of persons, organizations, institutions and State representatives guilty of the criminal acts defined in article II of the Convention, and extradition procedures for such cases, it should be mentioned that Romania had no cases of such offences and therefore there were no extradition proceedings.

VI. Regarding the possibility of creating an international penal court, as mentioned in article V of the Convention, it should be mentioned that according to Romanian legislation persons accused of having committed offences of the kind defined in article II of the Convention, shall be tried by the Romanian courts. Therefore there is no need to accept the competence of any international penal court that may be established in the future.

With a view to securing the possibility of bringing to trial those who committed the offences mentioned in the Convention, efforts should be directed mainly towards including specific provisions in the domestic legislation of each State, in accordance with commitments under this Convention, so that each State party may exercise through its judiciary bodies its jurisdiction in this field, according to the obligation stipulated in article IV, subparagraph (b) of the Convention.