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RELEASE OF DOCUMENT

Letter from the CSCE High Commissioner on National Minorities to the Minister of Foreign Affairs of Romania
Upon the decision of the 23rd Meeting of the Committee of Senior Officials on 22 September 1993, the above mentioned letter, dated 9 September 1993 is made public. The response from the Minister for foreign Affairs of Romania, dated 18 September 1993, is also released and attached to this letter.

Address:	Telephone:	Telefax:	Telex:
Prague Office of the CSCE Secretariat	+ 42-2-2431 10 69 (4 lines)	+42-2-2431 06 29 2431 10 75	121 614 CSCEC
Thunovská 12, Malá Strana 110 00 PRAGUE 1			Internet E-mail: CSCEPRAG@EARN.CVUT.CZ

C S C E
High Commissioner
on National Minorities

His Excellency
Mr. Teodor Melescanu
Minister of State, Minister for Foreign Affairs of Romania
Aleea Modrogan nr. 14

BUCHAREST
Romania

Reference:
1028/93/L

The Hague
9 September 1993

Dear Mr. Minister,

Following my visits to Romania on 2-9 June 1993 and 18-19 August 1993, I take the liberty to present to you a number of conclusions and recommendations concerning the question of the minorities in your country. My task has been greatly facilitated because the Romanian Government has been most helpful in providing me with unrestricted access to various sources of information.

Having suffered for decades under a very severe dictatorship, Romania has, since 1989, made remarkable progress in establishing democratic institutions and in assuring respect for human rights and the rule of law. Your Government has, moreover, indicated on several occasions its determination to strengthen democratic institutions in the years to come. The relevance of healthy and strong democratic structures for the position of minorities is evident. As the CSCE 1990 Charter of Paris has emphasized, questions related to national minorities can only be satisfactorily resolved in a democratic political framework.

The Romanian constitution of 1991 contains a number of articles which lay down the principles concerning the relationship between the State and the minorities. Article 4.2 says inter alia that Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language or religion.

Article 6 states that the State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.

Article 32.3 guarantees the right of persons belonging to national minorities to learn their mother tongue and their right to be educated in this language according to rules to be laid down by law.

Article 59.2 gives organisations of citizens belonging to national minorities, which fail to obtain the number of votes for a representation in Parliament, the right to have one seat in the Chamber of Deputies. Thirteen minority groups have won one seat in the Chamber of Deputies in this way. In addition, the Hungarian Democratic Union of Romania (UDMR) holds approximately 8% of the seats in each of the Chambers of Parliament.

Finally, article 127 says that citizens belonging to national minorities as well as persons who cannot understand or speak Romanian have the right in court proceedings to take cognizance of all acts and files of the case, to speak before the court and to formulate conclusions through an interpreter; in criminal cases this right shall be ensured free of charge.

I will come back to some of the provisions later in this letter. However, it seems to me that, provided that they are fully implemented, they can offer important guarantees for the member of the various minorities.

I also attach great importance to a number of assurances which the Romanian Government has given. In conversations I had with you and other members of the Government, I was told that the Romanian Government is determined to implement fully all the provision of the various CSCE documents relating to minorities. In this respect, I also have noted that in Article 15.1 of the 1992 Treaty between Romania and the Federal Republic of Germany parties have agreed that the norms concerning minorities in the CSCE 1990 Copenhagen Document and subsequent CSCE documents will be considered to be applicable as law.

In your letter of 22 June 1993 to Mr. König, Rapporteur on Romania of the Parliamentary Assembly of the Council of Europe, you have recalled the commitment of the Romanian Government to accept in their entirety the European Convention for the Protection of Human Rights and Fundamental Freedoms and its additional protocols, as well as the recommendations of the Parliamentary Assembly, and to ensure their implementation. In this respect I wish to recall Resolution 1201 of the Parliamentary Assembly which contains provisions, which, once their implementation is ensured, could help considerably to allay concerns which apparently exist among some minority groups. I think for instance of Article 7.3, which states inter alia that in the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities.

In your letter to Mr. König you also refer to the assessment the President is making of several legal individual cases, adding: "Within the framework of his constitutional prerogatives, he will consider the possibility of undertaking some steps towards the end of the year that will send a positive signal in solving this issue. At the same time, the President is not ruling out the possibility that, as a climate of tolerance, of trust of the population in the authority, fairness and impartiality of the justice is increasing, a pardon could also be considered". I express the hope that the President will find it possible to take these steps.

An important step towards promoting dialogue was taken, when your Government decided in April 1993 to set up a Council for Ethnic Minorities, in which each national minority will have three representatives. I intend to come back to this in my recommendations, but I want already to state now that the Council, provided its potential will be used to the full, can be a vital instrument in ensuring mutually acceptable formulas for the solution of a number of key minority issues. As one of the tasks of the Council will be to establish and maintain contacts with international bodies concerning the compliance with the rights of persons belonging to ethnic minorities, I intend, on my part, to remain in continuous contact with it. I would also

encourage the Council to forward suggestions to me on how I could assist it in its work, for example, by seeking to provide it with international expertise and experience on specific issues.

On the basis of the information I received in Romania, both in talks with representatives of the Government and with the representatives of various minorities, the main conclusion I have reached is that, if moderation and reasonableness prevail and extreme nationalism is rejected on both sides, there seem to be no insuperable barriers to constructive solutions. There is, however, a clear need to address a number of key questions in as rapid a tempo as possible. The longer they remain unresolved, the more difficult it might become to find solutions.

My recommendations deal mainly with questions relating to minorities in general. I have, however, made some specific comments concerning the most vulnerable minority, the Roma.

Against this background my recommendations are the following:

1. The Romanian Government, and equally the representatives of the minorities in the Council, ought to make full use of the potential of the Council for National Minorities. Because much of the work is being done in various committees, it can cope with a great number of issues, provided that sufficient budgetary and staffing resources are available. It is essential that it does not restrict itself to recommendations on legislation, even though this is also a crucially important task, but also fulfils the other tasks as laid down in its operating regulation as endorsed in the meeting of the Council of 11 May, 1993. Its role in making proposals on Government decisions, monitoring problems at the local level of administration and considering individual complaints could help considerably in removing or preventing tensions concerning minorities. A useful role can also be played by the minority advisory committee to the Audiovisual Council which has recently been created by the Council for Ethnic Minorities. Provided that serious consideration is being given to its recommendations, radio and television programmes minorities could be better adapted to their wishes.

2. Even though the Romanian Constitution has a number of Articles laying down principles regarding the position of the minorities, there is obviously a need to elaborate them in greater detail in the form of a law on minorities. I suggest that the Council for Ethnic Minorities gives priority to this question and that the Government will ask the Parliament to give priority on its agenda to the draft law. Important elements in the formulation of this law could be both the proposal on the subject made by the German minorities in Romania and various elements of CSCE documents on the subject of minorities, which the Government already considers to be applicable as law. The early adoption of such a law could help considerably in creating an atmosphere of greater confidence among the various minorities.

3. Priority should also be given to the draft law on education, on which the Council for Ethnic Minorities has already given its recommendations. Important questions regarding education in the languages of the minorities could then be settled.

4. In the draft law on education as recommended by the Council for Ethnic Minorities, Article 110 establishes in principle the right to study and to be taught in the minority language in all forms of education. Article 111 elaborates this principle by stating "depending upon local necessities, there should be established groups, classes, sections or distinct educational units, where education in the minority language is given". The commission for education, science and youth matters of the Council for Ethnic Minorities could play a useful role in making recommendations concerning Government regulations on this subject, not only in the field of primary and secondary education, but also at the university level.

5. In order that the Advocate of the People, to be established pursuant to Articles 55-57 of the new Constitution, may effectively contribute to the strengthening of the rule of law, it is recommended that extensive powers be given to this institution. An effective and impartial supervision of public officials at the local, regional and national levels, including the prosecutors and the police, would also serve to defend the rights of persons belonging to national minorities. The person appointed as Advocate of the People should have the general confidence of all parties concerned.

6. President Iliescu stated in his speech to the World Conference on Human Rights in Vienna on 15 June, 1993, "from all our minorities, the Roma population are clearly the most disadvantaged". Furthermore, he referred to issues as the education and job training of the Roma. I would express the hope that the Government will intensify its efforts in these fields. Also, I recommend that the Government will not hesitate to take strong action whenever there are indications that Roma are the victims of direct or indirect discrimination in the work place, as this would constitute a violation of the principle of non-discrimination laid down in Article 4.2 of the Constitution.

7. Intensified efforts should be made to combat violence and ethnic hostility and hatred, including anti-semitism, against persons belonging to national minorities, taking into account the commitments contained in paragraph 40 and sub-paragraphs 40.1-40.7 of the Copenhagen Document, recognising the particular problems of Roma.

Having made these recommendations, I feel the need to make some additional observations in order to put them in their proper perspective. Firstly, I should like to emphasize that they are of course mainly inspired by my evaluation of the present situation of the minorities in Romania. New developments might lead to additional suggestions on my part. Secondly, I am very much aware that as the process of

transition from dictatorship to democracy has progressed, the general prospects for the minorities have improved correspondingly compared with Ceaucescu's times. And finally, I do of course realize that in a country which has gone through a process of fundamental transformation in the last few years, the Government has to cope with many other pressing problems. Still, I do think that an early implementation of my recommendations could contribute to the stable development of your country, also because they would help to bring down the walls of distrust which so often stand in the way of constructive dialogue.

May I finally express my appreciation and gratitude for the hospitality which the Government of Romania has offered to members of my staff and myself on several occasions, for the cooperative spirit in which all my requests were met, and for the openness with which my questions were answered.

Yours sincerely,

[signature]

Max van der Stoep

High Commissioner on National Minorities

Ministerul Afacerilor Externe al Romaniei
CABINETUL MINISTRULUI

Bucharest, 18 September, 1993

Dear Mr. High Commissioner,

I acknowledge the receipt of your letter of 14 September, 1993 presenting some conclusions and recommendations concerning the question of minorities in my country.

With your permission I should like to reserve my right to make some substantive comments on your letter, but for time being I would limit myself to a few preliminary remarks.

First, I should like to express my gratitude for your kind words addressed to my Government for the cooperative spirit in which all your requests were met, for the openness with which your questions were answered, and the assistance in providing you with unrestricted access to various sources of information. May I assure you that you can count on the same cooperation and support whenever you will decide to visit Romania again.

Secondly, I note with satisfaction the friendly and constructive manner of your comments and recommendations and I assure you that we shall study them very carefully in a spirit of good will and cooperation.

Last but not least, I should like to inform you that the Council for National Minorities is preparing a draft law on minorities which it hopes to be able to submit to the Government and then to the Parliament early this fall. On the other hand there are good chances that the Law on Education will be voted upon by the Parliament in the next couple of weeks.

I shall come back to your letter with more comments later on, perhaps at the beginning of October.

In the meantime I have requested the Governmental institutions concerned to study your recommendations and to come up with proposals for their early implementation.

Yours sincerely,
Teodor Melescanu
[signature]
Minister of State,
Minister of Foreign Affairs of Romania

H.E. Mr. Max van der Stoel
CSCE High Commissioner on National Minorities
Prinsessegracht 22
2514 - The Hague