



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues prior to submission of the sixth periodic report of Hungary\*

The Human Rights Committee, at its ninety-seventh session (A/65/40 (Vol. I), para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

#### General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on measures taken to implement the Committee's latest recommendations (CCPR/C/HUN/CO/5), including any relevant statistical data. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party (communications No. 410/1990, *Párkányi v. Hungary*, No. 521/1992, *Kulomin v. Hungary* and No. 852/1999, *Borisenko v. Hungary*).
2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including in the composition of the Constitutional Court, and provide examples of cases in which the provisions of the Covenant have been referred to by national courts. Please explain, in particular, the effect the fourth amendment to the Fundamental Law has had on the power of courts to exercise judicial review over legislation affecting the protection of human rights.

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\* Adopted by the Committee at its 115th session (19 October-6 November 2015).



## **Specific information on the implementation of articles 1 to 27 of the Covenant**

### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

3. In the light of the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 7), please indicate the measures taken to ensure that the office of the Commissioner for Fundamental Rights is provided with adequate financial resources for its effective functioning and full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please clarify whether the mandate of the Commissioner covers all forms of discrimination against women, including against women belonging to disadvantaged groups.

### **Non-discrimination and the rights of persons belonging to ethnic, religious, linguistic or sexual minorities (arts. 2 and 24-27)**

4. Taking into account the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 20), please provide information on measures taken to eradicate stereotypes and widespread discrimination against the Roma population in all spheres, particularly in terms of access to education, employment, housing and health care. In particular, please provide information on the measures taken to address the continued segregation of Roma children into separate classes and schools, and into schools for special needs, including information on the impact of those measures.

5. Taking into account the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 18), please provide information on measures taken to combat: (a) the increasing number of racially motivated verbal and physical attacks against Roma; (b) intolerance, discrimination and hate speech, including political hate speech, in particular against Roma, Jews, asylum seekers, refugees and migrants; (c) the growing number of extremist organizations and vigilante patrols; (d) racial profiling of the Roma by the police; and (e) vandalism of Jewish property and cemeteries. Please indicate the measures taken to increase the investigation and prosecution rate for racially motivated crimes and provide relevant statistical data on the number of complaints, investigations, prosecutions and convictions. Please also provide information on new legal provisions concerning hate crimes, introduced in the Criminal Code that entered into force in 2013, and clarify whether the police have specific protocols and guidelines on how to investigate hate crimes and prosecute those responsible.

6. Please indicate the measures taken to combat discrimination on the grounds of sexual orientation, including societal discrimination and discrimination in public education. Please comment on reports of discrimination and hate speech against and harassment of lesbian, gay, bisexual and transgender persons and provide information on measures taken to investigate such cases and bring perpetrators to justice.

### **Non-discrimination and ill-treatment of persons with disabilities (arts. 2, 7 and 24-26)**

7. Please report on measures taken to combat discrimination against children and adults with disabilities and to ensure their access to appropriate health care, including psychosocial rehabilitation programmes. Please provide information on the implementation of the strategy on deinstitutionalizing social care institutions for persons with disabilities, including measures taken to reduce the 30-year period (2011-2041) established for completing the deinstitutionalization process. Please also clarify whether the deinstitutionalization strategy covers children with disabilities and persons with psychosocial disabilities.

8. Please report on the reasons for and the process of depriving persons with “limited mental ability” and legally incapacitated persons from voting in elections. Please explain how such measures are compatible with the Covenant.

9. Please provide information on the alleged practice of forced sterilization of persons with disabilities.

**Non-discrimination and ill-treatment of women (arts. 2, 3, 7, 17 and 26)**

10. Taking into account the Committee’s previous recommendation (see CCPR/C/HUN/CO/5, para. 10), please provide information on measures taken to eradicate gender stereotypes in society, particularly with regard to Roma women, and report on the new strategy on gender equality. Please indicate the measures taken to enhance de facto participation and representation of women in public and political life, particularly in decision-making positions.

11. In the light of the Committee’s previous recommendation (see CCPR/C/HUN/CO/5, para. 11), please provide information on measures taken to combat violence against women, including domestic violence, and to encourage reporting of such cases. Please clarify the manner in which domestic violence is criminalized in the Criminal Code. Please provide information on the training of law enforcement and police officials, social workers and medical personnel on how to detect victims of domestic violence, as well as on the sufficiency of the number of State-run shelters for victims. Please also provide information on measures taken to secure the reporting and criminal investigation of all cases of domestic violence and the prosecution and sanction of those responsible.

**Trafficking in persons (arts. 8 and 24)**

12. In the light of the previous concluding observations (see CCPR/C/HUN/CO/5, para. 12), please provide information on measures taken to combat trafficking in men, women and children for the purposes of forced labour and sexual exploitation. Please provide data on: (a) the number of reported cases; (b) investigations and prosecutions initiated and actual convictions; and (c) the availability of sufficient assistance services for men, women and children who are victims of trafficking, including shelters, legal assistance and reintegration services. Please provide information on the new legal provisions concerning human trafficking introduced in the Criminal Code.

**Right to fair trial (arts. 9, 14 and 24)**

13. Please explain the reasons for lowering the minimum age of criminal responsibility in cases of certain offences. Please provide information on how the State ensures that juveniles are treated in a manner commensurate with their age and provided with appropriate assistance in the preparation and presentation of their defence during the pretrial stage of criminal proceedings.

14. Please provide information on steps taken to ensure legal assistance for arrested persons, in accordance with the Covenant, including on the procedure for appointing defence counsel. Please comment on reports that in practice the notice given to lawyers representing arrested persons is often short, making the lawyer’s presence in criminal proceedings difficult or impossible.

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment and the right to liberty (arts. 6, 7, 9 and 12)**

15. Please comment on the amendment introduced in 2013 to the Fundamental Law (art. XXII, para. 3) that enabled local governments to enact a decree that “may, with respect to a specific part of public space, provide that staying in public space as a habitual dwelling

shall be illegal". Please comment on reports before the Committee that several homeless people have been fined and/or subjected to confinement for sleeping in public spaces.

16. Please respond to reports of allegations of excessive use of force by the police at the time of apprehension and during interrogations, and cases of ill-treatment committed by prison officers. In this respect, please provide information on the number of investigations, prosecutions and convictions and on the remedies granted to victims.

17. In the light of the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 14), please provide information on the mandate and functioning of the Independent Law Enforcement Complaints Body created in order to investigate violations committed by the police. Please also provide information on measures taken to ensure, in all cases of alleged ill-treatment, the conduct of an independent medical examination without the presence of law enforcement personnel, unless such presence is strictly necessary.

18. In the light of the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 13), please provide information on the implementation of Act CLXXXVI of 2013, which amended the rules on pretrial detention, and on the compatibility of those provisions with article 9 of the Covenant. In particular, please clarify whether short-term arrests, by which suspects can be detained for up to 12 hours without charge, remain possible, and indicate the maximum length of police detention allowed in the State party. Please also provide information, including statistical data, on measures adopted to reduce the length and frequency of pretrial detention, including with respect to juvenile offenders. Please indicate measures taken to guarantee, in practice, the right of detained persons to notify their immediate families about their detention.

19. Please explain whether the law on misdemeanours provides for alternatives to the deprivation of liberty, and comment on reports that there has been an increase in the conversion of non-payment of fines to confinement. Please provide information on legal safeguards available to challenge the conversion of a fine to confinement.

20. Please provide information on the restrictions and means of restraint applied to inmates in the Special Security Regime Unit and the Special Security Unit and explain the procedure for the placement of inmates in those regimes and the review and renewal of decisions on such placement.

21. Please comment on reports that solitary confinement is used in prison facilities as the most severe disciplinary sanction, including for juveniles, and for up to 30 days for prisoners subject to a strict regime. Please provide information on the practice of issuing sentences for life imprisonment without the possibility of parole and on the nature of pardon procedures applicable to prisoners serving life imprisonment, and explain how the existing arrangements are compatible with the State party's obligations under the Covenant.

22. In the light of the Committee's previous recommendation (see CCPR/C/HUN/CO/5, para. 16), please provide information, including relevant statistics, on measures taken to prevent overcrowding in prisons. Please report on measures taken to improve the quality of health services and of food served in prison facilities. Please provide information on non-custodial preventive measures and alternatives to custodial sentences and statistics on their application in practice. Please also provide information on steps taken to prevent and protect inmates from inter-prisoner violence and intimidation, particularly at the Somogy County and Sopronköhida prisons.

**Refugees, asylum seekers, protection of children and the rights of the child  
(arts. 7, 9, 10, 12-14 and 24)**

23. Please provide information on the implementation of the new amendments to the asylum legislation (Law LXXX of 2007 on asylum). Please clarify what legal remedies are

available to detained asylum seekers. Please comment on reports that the new grounds for detention of asylum seekers are vague, that the use of bail and alternatives to detention is rare in practice and that asylum seekers are detained for lengthy periods of time. Please also report on measures taken to ensure well-founded decisions in refugee status determination procedures and adequate procedural safeguards.

24. Please provide information on the implementation of the migration strategy for 2014-2020. Please clarify whether sufficient space in temporary detention facility centres is available. Please report on measures taken by the State party to improve the detention conditions of asylum seekers (see CCPR/C/HUN/CO/5, para. 15).

25. Please report on measures taken to ensure that a comprehensive age assessment of unaccompanied migrant children is conducted in all cases and on whether, pending age assessment, unaccompanied migrants who may be minors are detained together with adults. Please also indicate whether: (a) there are any mechanisms in place to appeal the outcome of vulnerability and age assessments; (b) unaccompanied migrant children receive adequate free legal representation and psychosocial care; (c) there are, in law and in practice, adequate guarantees to ensure that migrant children are not placed in detention, unless such detention is absolutely necessary, and that any such detention is limited to the shortest time possible.

26. Please explain the nature of the travel restrictions imposed in September 2015 on non-residents, including asylum seekers, attempting to cross Hungary by train en route to other countries. Please also comment on reports alleging deliberate non-registration of asylum seekers entering the State party's territory, mistreatment of asylum seekers travelling through the country by law enforcement officials and the insufficiency of measures taken against criminal groups involved in the smuggling of migrants through Hungarian territory.

**Freedom of expression and association, and the right to participate in public life (arts. 18, 19 and 21)**

27. Please provide information on the mass media act and the press freedom act, particularly on articles 12 and 13 of the latter, and on how those acts are compatible with the State party's obligations under the Covenant. Please comment on information before the Committee that the Media Council and the National Media and Infocommunications Authority are not perceived as independent from political influence and control. Please also provide information on the administrative proceedings that can be initiated by the Media Council against media services, including the possibility of imposing heavy fines and of cancelling the licence of a media service. In particular, please provide information on the Media Council's decision to cancel the licence of the radio station Klubrádió in 2011, which was later overturned by a judicial court in 2013.

28. Please respond to the allegations that there is growing political pressure on journalists and interference in editorial content and public media. Please indicate whether there are any plans to amend the broad legal definition of defamation, including with respect to public figures, and to decriminalize defamation.

29. Please comment on reports that non-governmental organizations benefiting from the Norwegian civil fund have been audited by the Hungarian Government Control Office, on the basis of an allegation that they were supporting the opposition political party. Please explain how this measure complies with the rights under the Covenant, in particular the freedoms of expression and association.