



Promotion and protection of women's rights in Hungary

Submission to the UN Universal Periodic Review of Hungary

Second cycle
25th Working Group session
Human Rights Council
April/May 2016

Submitted by: Hungarian Women's Lobby, NANE Women's Right Association, PATENT (People Opposing Patriarchy)

The **Hungarian Women's Lobby** (HWL), established in 2003, is an umbrella organisation advocating for the women's human rights agenda as laid down by international norms. The HWL unites and represents the interests of Hungarian women's organisations with a gender equality and human rights-based agenda. HWL is the Hungarian national coordinator organisation of the European Women's Lobby, the largest umbrella of women's associations in the EU.

www.noierdek.hu

NANE Women's Rights Association (NANE), established in 1994, is a grassroots NGO following a human rights approach, providing continuous services for victims of gender based violence, and running short and medium term public education, training and advocacy projects. NANE's mission is to contribute to a world free of any form of gender based violence stemming from, reinforced by, and serving patriarchal notions and goals.

www.nane.hu

PATENT (People Opposing Patriarchy) (PATENT), founded in 2006, is an NGO with a vision to contribute to a society where the equality of women and LGBT people is a reality. PATENT provides legal and psychological counselling and, in certain cases, legal representation to women and children victims of male violence and to victims of violence and discrimination against LGBT people. The organisation also conducts awareness raising, training activities, as well as lobbying for legal reforms.

www.patent.org.hu

September 2015

I. INTRODUCTION AND CONTEXT

Since the democratic transition Hungary has lacked an adequate institutional, policy and legal framework to effectively advance gender equality which has not been placed high on the consecutive governments' agendas.¹ There has been insufficient progress in accomplishing international women's human rights norms. Recommendations of the CEDAW Committee to Hungary were not duly implemented by any government up to now.² No implementation plan has been elaborated for the CEDAW recommendations of 2013³.

In addition, the current government took a regressive approach to gender issues, promoting traditional gender roles and 'family mainstreaming' – replacing gender mainstreaming –, through several communications and measures, in the context of the desired demographic increase.⁴ At the same time, the misinterpretation and misuse of the concepts of 'gender' and 'gender equality' also appeared in recent years, similarly to other European countries.

Women's rights NGOs have experienced a lack of cooperation, or even communication, by state actors since 2010. Furthermore, a communication campaign was started by some government-friendly media and state actors in 2013 and continued later on against a group of NGOs dealing with democracy and human rights, accusing those NGOs most frequently as being "leftist fake NGOs", "paid political actors", or "serving foreign interest". HWL and three of its member organizations – dealing with combating violence against women, including domestic violence and sexual violence and with LGBT and reproductive rights – were included on the list of NGOs considered problematic to the government in 2014.⁵ Afterwards, these organizations faced a Government Control Office audit as grantees of the EEA/Norwegian NGO Fund; the legality of the procedure was objected to by these grantees as well as by the NGO consortia managing the grant and by the Norwegian Government. Furthermore, since January

¹ See a detailed analysis on that: *A nőtlen évek ára – A nők helyzetének közpolitikai elemzése 1989-2013 (The price of womanless years – Public policy analysis of the situation of women 1989-2013)*, Magyar Női Érdekvédelem Szövetsége (Hungarian Women's Lobby), Budapest 2013. Available in Hungarian at: <http://noierdek.miria.hu/wp-content/uploads/2014/03/notlen-evek1.pdf>

² For more information see the *Alternative report submitted to the UN CEDAW Committee for consideration in relation to the examination of the combined seventh and eighth periodic reports of Hungary*, by the Hungarian Women's Lobby and the European Roma Rights Centre, January 2013. Available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/HUN/INT_CEDAW_NGO_HUN_13260_E.pdf

³ See Committee on the Elimination of Discrimination against Women: Concluding observations on the combined seventh and eighth periodic reports of Hungary, adopted by the Committee at its fifty-fourth session (11 February–1 March 2013), CEDAW/C/HUN/CO/7-8, 26 March 2013, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fHUN%2fCO%2f7-8&Lang=en

⁴ The CEDAW Committee also expressed concerns in this regard in its Concluding observation in 2013: "The Committee is further concerned that taking this direction increases the prevalence of gender stereotypes by portraying women mainly, if not exclusively, in the role of mothers and caregivers." See point 8 of the Concluding observations, *ibid*.

⁵ The list was provided by the Prime Minister's Office on the request of a journalist. See the related article in Hungarian at: <http://444.hu/2014/05/30/itt-a-kormany-listaja-a-szervezetekrol-akik-miatt-nekimentek-a-norveg-alapnak/>
The "blacklisted" NGOs are the following: Transparency International Hungary (www.transparency.hu/), K-Monitor (<http://k-monitor.hu/>), Asimov Foundation (<http://atlatszo.hu/>), Hungarian Civil Liberties Union (<http://tasz.hu/>), Roma Press Center (<http://romasajtokozyont.hu/>), Krétakör Foundation (<http://kretakor.eu/>), NANE Women's Rights Association (<http://www.nane.hu/>), Foundation for Democratic Youth (<http://www.i-dia.org/>), Hungarian Women's Lobby (<http://noierdek.hu/>), Labrisz Lesbian Association (www.labrisz.hu), PATENT – People Opposing Patriarchy (<http://patent.org.hu/>), LiFE – Association of Young Liberals (<http://liberalisfiatalok.hu/>), Szívavány Misszió Foundation (<http://budapestpride.hu/>)

2015 HWL and one of its member organizations – together with some other NGOs – has been under a taxation authority audit, covering nearly three years of operation, and also related audits have been undertaken at the contractual partners, service providers of the NGOs.⁶

Proposed recommendations addressed to the Hungarian State:

- *By the adoption of respective implementation plans, duly implement the recommendations of international mechanisms addressed to Hungary, with special regard to the recommendations of the UN CEDAW Committee issued in 2013;*
- *Stop harassment of NGOs dealing with democracy and human rights issues, utilize instead the expertise and experiences of those NGOs for the purpose of policy development, and duly follow and disseminate the OSCE Guidelines on the Protection of Human Rights defenders⁷.*

II. SPECIFIC ISSUES

1. Institutional and policy framework

The national machinery for gender equality has been consistently underfunded and understaffed since its establishment, together with its marginalized location in the government structure. The Women's Policy Unit under the Department for Family Policy and Demography at the Ministry of Human Capacities only has three employees, and its location in the governmental structure determines its limited mandate. On the other hand, domestic violence as a policy issue and the related (crisis) institution system belongs to the Department for Creating Opportunities at the same ministry.

The Council for Gender Equality, a tripartite (state, civil society, experts) consultative body has not been convened since 2010; the future of this body is unclear. On the other hand, thanks to the UPR mechanism, the government established a Human Rights Working Group consisting of state actors in 2012. A roundtable and thematic working groups involving NGOs was also created, including one working group dealing with women's rights. HWL became a member of the working group. After one year of non-operation following the 2014 elections, the working group on women's rights was convened again in April 2015; HWL received an invitation to participate. There have been only two meetings so far in 2014, thus the evaluation of the effectiveness of this forum is not possible. However, it occurred in this period that important draft laws – one on domestic violence and another on the protection of victims – were not put on the agenda to be discussed by the working group.

Although the National Strategy for the Promotion of Gender Equality – Goals and Objectives 2010–2021 is in force, after its first action plan for 2010–2011 no further plans have been elaborated. The government has communicated since 2012 that the Strategy will be replaced by a new one but it has not been adopted and women's rights NGOs have not been consulted yet regarding this issue.

The National Development Agency and its implementing bodies, tasked earlier with the planning and programming of the European Structural Funds' resources (the major developmental resources in the new EU member states) made modest efforts to build their staff's gender equality knowledge. No systematic support was given to the fund beneficiaries in this regard, either. According to the civil society members

⁶ See in details the *Timeline of the Governmental attacks against the Hungarian NGO sphere* at: http://helsinki.hu/wp-content/uploads/Timeline_of_gov_attacks_against_HU_NGOs_12082015.pdf

⁷ See <http://www.osce.org/odihr/119633>

of the Monitoring Committees of the main operational programs, as well as a related analysis⁸, gender equality did not receive due attention in the previous programming cycle (2007–2013). Although the government plans to use resources from the EU Structural Funds in the next programming cycle (2014–2020) to meet state obligations in advancing women’s rights, no information is available on how gender mainstreaming will be systematically applied and the principle of gender equality enforced in the system.

Recommendations:

- *Put in place and duly implement a human rights based, comprehensive gender equality strategy guaranteeing that the document sets deadlines and responsible actors, and provides appropriate budget and monitoring mechanisms for effective implementation;*
- *Strengthen the position of the national machinery for gender equality, and equip it with the necessary financial and human resources; ensure the effective operation of other bodies of the institutional mechanism for the advancement of women;*
- *Utilize the expertise and experiences of women’s rights NGOs when planning and implementing respective legislative and policy measures, and make real use of the established consultative forums in this regard;*
- *Introduce a transparent mechanism for the systematic application of the gender equality principle and gender mainstreaming in the distribution and utilization of the resources from the EU Structural Funds.*

2. Elimination of gender stereotypes

There is no comprehensive state policy on gender equality in the field of education. The National Core Curriculum was adopted in 2012; in this document gender equality is not included among the tasks and values of public education, in the areas of development, or among the objectives of education. The issue of gender equality is not emphasized in teacher training, it is only present as local programmes and ad-hoc initiatives, rather than at the policy level. At the same time several cases have been revealed in recent years on sexist contents in schools textbooks.⁹

The media laws and the Public Service Code in media do not pay attention to gender equality and to the elimination of prejudices and practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped gender roles. At the same time women are persistently under-represented in the news media.¹⁰

Recommendations:

- *Introduce policies, systematic teacher training programs as well as other awareness raising measures on gender equality and the elimination of stereotypes and prejudices targeting the public education system;*
- *Encourage the setting of guidelines and self-regulatory standards in media in order to prevent spreading harmful gender stereotypes and prejudices and to combat violence against women; call the*

⁸ See: *Evaluation of the European Social Fund’s support to Gender Equality – Country Report of Hungary*, GHK and Fondazione G. Brodolini, 24 January 2011, available at: <http://www.gendercop.com/ec-evaluation-of-operational-programmes/>

⁹ The textbook of 6th grade nature study says, among others, that “boys and girls are different with regard to certain physical capabilities and intellectual abilities”. Furthermore, a reader for the 4th grade contains a sexist joke, saying that shouting is taking place just because the father explains the 4th grade homework to the mother.

¹⁰ Recent results of the 2015 Global Media Monitoring Project (GMMP) have revealed that the overall presence of women in the Hungarian news in the analysed print media, radio and television channels was 21%. See more information at www.whomakesthenews.org

attention of broadcasters to better promote gender equality, and support the organization of training programs for media professionals in that regard.

3. Participation in political life and decision-making

There are no female ministers in the current government, while the proportion of female state secretaries is only 12.96%. The constantly low representation of women in the Parliament did not improve after the 2014 elections, currently it is at 10.1%. No measures have been introduced by the state in the reporting period to remedy the situation.

Recommendation:

➤ *Introduce effective legislative measures – e.g. quotas as temporary special measures – to increase women’s participation in political life and decision-making.*

4. Elimination of violence against women

Hungary signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) in 2014, but has not ratified it yet. Some positive steps have been made in the criminal law response to domestic violence and sexual violence in recent years. Women’s rights NGOs, however, either have not been consulted at all in the relevant legislative and policy processes, or their expertise and experience – including the experience and needs of the victims they are providing assistance to – have not been taken into consideration. In order to prepare for the signature and ratification of the Istanbul Convention the government established an inter-ministerial working group in 2013. Women’s rights NGOs active in the field were not invited to the group, not even occasionally. According to the available information, the group has already finished its operation. No report is available on the group’s work or on the proposals it made for the preparation of the ratification.

An emblematic parliamentary decision on preventing and combating domestic violence was born in 2003 after a unique case of public demand and in real consultation with NGOs.¹¹ The document has not been implemented fully by any of the governments up to now, and it was replaced by another decision in 2015, without any consultation with women's rights NGOs.¹² Although it contains some relevant measures, the decision's approach and several provisions are not in compliance with the Istanbul Convention.

While a specific legal provision regarding “relationship violence” was incorporated in the Criminal Code in 2012, it does not cover all kinds of intimate partnership and all forms of violence, such as stalking. The law on restraining orders¹³ does not provide effective and long term protection to victims, as it can be issued by the police only for 72 hours and extended by the court for a maximum of 60 days without an option to extend it. There is still no systematic and accessible data collection on the number of investigations, prosecutions and convictions in cases of violence against women or on the number of restraining orders issued. Compulsory mediation for domestic violence cases is broadly applied in civil

¹¹ See Decision 45/2003. (IV. 16.) of the National Assembly on establishing a national strategy for the prevention and successful handling of domestic violence. The resolution is available in English at www.stopvaw.org/uploads/Parliamentary_Resolution_3.rtf

¹² See Decision 30/2015. (VII. 7.) of the National Assembly on setting national strategic objectives to advance effective response to domestic violence. The text is available in Hungarian at http://njt.hu/cgi_bin/njt_doc.cgi?docid=176563.295760

¹³ See Act No. LXXVII of 2009 on restraining orders applicable in cases of violence between relatives

lawsuits. Courts and child protection authorities fail to recognise and take into account domestic violence in custody and visitation cases, thus forced visitation is a widespread practice applied in the cases of children with abusive parents (mostly fathers). Moreover, women who do not allow the visitation of an abusive father face fines and, ultimately, prison sentences for the criminal offence termed as “barring visitation”.

The legal definition of rape is still not based on the lack of consent, and a reference to sexual morals is still present in the new regulation. Criminal procedures for many of the offences relevant to domestic violence and sexual violence still require the victim's active involvement, such as the request for a private motion (a statement from the victim within 30 days requiring the punishment of the perpetrator) as a prerequisite of the procedure or the cases are put under private prosecution.

Rape and sexual violence has received more public attention since 2014. One reason was that a county police headquarters issued a victim-blaming video spot on rape with an awareness raising purpose; the case was echoed even at international level.¹⁴ In addition, cases of rape and sexual abuse committed in “freshmen camps” of certain colleges and universities in Hungary were revealed last year. Although some legislative measures were introduced, and some universities started to address the problem, comprehensive state response and policy development did not follow the cases.

The comprehensive prevention, protection and prosecution approach in the field of violence against women and domestic violence – as prescribed by the Istanbul Convention besides other international norms – is not reflected well in the state response. Improper application of existing legislation and regulations, the lack of systematic training and protocols for professionals often leading to inefficient and ineffective response, as well as limited availability of proper support services are considered by women’s rights NGOs as major obstacles for victims to access justice.¹⁵

Recommendations:

- *Ratify the Istanbul Convention without delay, and implement it in cooperation with women’s rights NGOs active in the field;*
- *Amend the law on restraining orders in order to provide effective protection to victims in all types of cohabitation and extend the maximum duration of the restraining order;*
- *Collect the necessary statistical data on all forms of violence against women disaggregated by sex;*
- *Adopt a comprehensive law on domestic violence.*

5. Action against trafficking in women

There have been remarkable improvements in recent years in criminal legislation in combating human trafficking and child prostitution. However, there is still room for improvement even in legislation, but also in others fields of (state) intervention. The Group of Experts on Action against Trafficking in Human

¹⁴ See the open letter of women’s rights NGOs against the video here in Hungarian: <http://keretkoalicio.blogspot.hu/2014/11/nem-ruha-teszi-az-aldozatot-nojogi.html>

¹⁵ For more information see Judit Wirth ed.: *System Failure – Male violence against women and children as treated by the legal system in Hungary today*, PATENT Association, NANE Women’s Rights Association, 2011. Available at <http://nokjoga.hu/sites/default/files/filefield/system-failure-2011.pdf>

Beings (GRETA), tasked to evaluate the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, issued the first evaluation report concerning Hungary in 2015.¹⁶ The reports sets a number of recommendations to improve the state response, among others, in the following fields: core concepts and definitions, comprehensive approach and coordination, training of professionals, data collection and research, awareness raising, social, economic and other initiatives for groups vulnerable to trafficking, identification of and assistance to victims, substantive law, non-punishment of victims, investigation, prosecution and procedural law, protection of victims and witnesses.

Recommendation:

➤ *Duly implement the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA) to Hungary issued in 2015, by the adoption of a respective implementation plan, and/or by making relevant revision of the respective national strategy for the period 2013-2016.*

6. Family life

The cardinal law on the protection of families adopted in 2011¹⁷ defined the family as a “relationship between natural persons in an economic and emotional community that is based on a marriage between a woman and a man, or lineal descent, or family-based guardianship.” However, the Constitutional Court declared in its decision in 2012 that this definition of the family is contrary to the Fundamental Law, arguing that its scope is too narrow.¹⁸ As a response, not the definition of the family was extended but rather the Fundamental Law was modified in 2013¹⁹, incorporating that “Family ties shall be based on marriage or the relationship between parents and children.”

The narrow interpretation of the family may negatively affect certain groups, such as those living in civil partnership, sexual minorities or children not living in a marriage-based family. An example of that in case of children was the provision of the Act No. LXXXIV of 1998 on supporting families, leading to that depending on the legal relationship between the parents certain types of families – those not based on marriage – were entitled to less family allowance, furthermore could not get other state support that depended on the number of children. The Constitutional Court examined and finally found the respective provisions unconstitutional.²⁰

Recommendation:

➤ *Amend its Fundamental law in order to ensure that the definition of family and its interpretation complies with international human rights norms, with special regard to the prohibition of discrimination.*

¹⁶ See GRETA Group of Experts on Action against Trafficking in Human Beings: *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary – First evaluation round*. Adopted 20 March 2015, Published 29 May 2015. Available at

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2015_11_FGR_HUN_en_w_cmnts.pdf

¹⁷ Act No. CCXI of 2011 on the protection of families

¹⁸ See Decision No. 43/2012. (XII. 20.) of the Constitutional Court. The text is available in Hungarian at <http://public.mkab.hu/dev/dontesek.nsf/0/065D43D1183D5A48C1257AE8004C12E8?OpenDocument>

¹⁹ See the fourth modification of the Fundamental Law (25 March 2013), Article 1.

²⁰ See Decision No 14/2014. (V. 13.) of the Constitutional Court, available in Hungarian at <http://public.mkab.hu/dev/dontesek.nsf/0/9C157DC3CB5A7265C1257ADA00524ADF?OpenDocument>

7. Sexual and reproductive health and rights

Even though the provision of the Fundamental Law granting the right to life to the fetus²¹ has not resulted in the amendment of Act No. LXXIX of 1992 on the Protection of Fetal Life, a slow, sneaking restriction tendency has been observed. Currently medical abortion is not available, as the Hungarian Government hindered the distribution of EU-widely registered drug, Medabon and pushed the only one private clinic providing medical abortion to stop its activity in August 2012. In spite of the concerns of the CEDAW Committee that called the government to ensure access to safe abortion without subjecting women to mandatory counselling and a medically unnecessary waiting period²², no changes have been put into place since 2013. The law mandates two counseling sessions with a three-day waiting period between the sessions before a woman can obtain an abortion. The mandated counseling is explicitly designed to dissuade the women from obtaining an abortion. Despite the recommendations of various UN treaty monitoring bodies, no one contraceptive method is subsidized by the state, which poses an obstacle to access to family planning.

In January 2015 the European Commission decided that the emergency contraceptive ellaOne can be sold over-the-counter across the European Union.²³ However, Hungary with a quick modification in the respective national law remained the only EU member state that kept the emergency pill available upon prescription only. The legal regulations of sterilization also got stricter as of March 2014: only people above 40 years old or already having 3 children can apply for sterilization for non-medical reasons.²⁴

The recognition of independent midwives as a professional group is still missing, in spite of the government decree creating the legal framework for home birth, which entered into force as of 1st April 2011.²⁵ The resolution is highly restrictive, excluding most women from giving birth outside hospitals based on “medical contraindications” and by not providing state funding. Hungary’s foremost defender of women’s reproductive rights, Dr. Ágnes Geréb, was sentenced to two years’ imprisonment and suspended from working as an obstetrician-gynecologist and midwife for ten years after she was found guilty of negligent malpractice by a criminal court in February 2012. She is prosecuted for further birth incidents based on the opinion of experts who are doctors in maternity hospitals.

Recommendations:

- *Remove barriers in the access to abortion services such as the unavailability of medical abortion, biased counseling and the mandatory waiting period requirements;*
- *Enable access to affordable contraceptive methods by (partially) covering the costs of modern contraceptive methods under the public health insurance;*
- *Improve access to emergency contraception by eliminating the prescription requirement;*
- *Recognize individual midwives as professionals equally competent as hospital doctors within birth.*

²¹ Fundamental Law of Hungary, art. II (adopted April 25, 2011) (Hung.) (“Everyone has the right to life and human dignity, the life of a fetus will be protected from conception”)

²² See the Concluding observations of the CEDAW Committee in 2013, *op. cit.*

²³ <http://www.ec-ec.org/european-commission-decision-grants-120-million-women-direct-access-to-ellaone/>

²⁴ See the international petition against the proposal:

http://tasz.hu/files/tasz/imce/international_open_letter_sterilization_signed.pdf

²⁵ Government Decree No. 35/2011 (III. 21.) on the rules, conditions and exclusion criteria of giving birth outside institutions.

8. Addressing multiple discrimination

With the general lack of effective gender equality policies in place, intersectionality and multiple discrimination against women have not been given due attention in related policies.

Romani women may suffer from multiple discrimination on the basis of their gender, ethnicity and class, experiencing barriers to equal access to education, healthcare and adequate housing, employment as well as justice.²⁶

Hungary in general lacks laws, policies and programmes to address the specific situation and multiple discrimination against women with disabilities²⁷ and of the girl child²⁸.

The alien policing legislation does not set forth differentiated rules for women in immigration detention, except for the opportunity of prolonged medical treatment in a healthcare institution for pregnant women. Asylum seeking women who are not detained are placed in an open refugee reception centre where there is no specific screening process in place to identify victims of gender-based violence and no state-funded psycho-social assistance or rehabilitation is provided for them.²⁹

Recommendation:

➤ *Introduce specific policy measures and programs targeting women victims of multiple discrimination (Romani women, women with disabilities, girl children, rural women, women asylum seekers, lesbian women etc.); pay due attention to these groups of women while implementing existing policy documents.*

²⁶ Written Comments of the European Roma Rights Centre Concerning Hungary For Consideration by the United Nations Committee on the Elimination of Discrimination against Women at its 39th Session. (23 July-10 August 2007), available at: <http://www.errc.org/db/03/7A/m0000037A.pdf>; see also the National Social Inclusion Strategy.

²⁷ See in detail the Joint Submission of the Hungarian National Council of Persons with Disability (FESZT), the European Disability Forum (EDF) and the International Disability Alliance (IDA) on Hungary to the UN Committee on the Elimination of Discrimination against Women Pre-sessional Working Group, 54th session. Available at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/FESZT_EDF_IDAjointSubmission_PSWG_Hungary.pdf

²⁸ See the Submission of the Hungarian Women's Lobby to the UN Committee on the Rights of the Child in relation to the consideration of the third to fifth periodic reports of Hungary, June 2014. Available at http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/HUN/INT_CRC_NGO_HUN_18113_E.pdf

²⁹ The information in this paragraph is provided by the Hungarian Helsinki Committee. For further information see the National Research Report of the Hungarian Helsinki Committee for the GenSen Project, available at www.helsinki.hu/en/gender-and-asylum-in-hungary