

## STATEMENT

### UPR Pre-session on Hungary

7 October 2021,

Delivered by the Hungarian Helsinki Committee

#### **Presentation of the Organisation**

This statement is delivered on behalf of the Hungarian Helsinki Committee, one of Hungary's largest and oldest human rights NGOs. We protect human dignity and the rule of law through legal assistance and public advocacy. We have been providing submissions for the UPR since the first cycle and regularly cooperate with UN bodies. Our joint submissions for this cycle address several issues, including [shrinking civic space](#), [the criminal justice system](#), [hate crimes](#), the [treatment of asylum seekers](#) and their [detention](#), [statelessness](#), but today I am focusing on some aspects of our submission on the [situation of the rule of law in Hungary](#).

#### **Consultations on the National Report**

CSO's could comment on the draft national report in the framework of the Government's "human rights roundtable". However, these consultations were carried out with very short deadlines, and not all the CSO working groups set up under the human rights roundtable had a chance to comment on the draft. It is unclear whether and how CSO comments were taken into account. In any case, the National Report has not been published at the time of the recording of the video statement.

#### **Lack of consultations in the law-making process**

This flawed procedure is not an exception: it has become the rule in Hungary's illiberal regime. Although the law obliges the Government to conduct consultations on every Bill submitted to Parliament and in the 2<sup>nd</sup> cycle three recommendations called on Hungary to improve consultation with civil society, laws are adopted without any meaningful consultation. In 2020, only 5 out of 160 Bills submitted by the Government to the Parliament were put up for consultation. No consultation was held on crucial Bills, such as the latest amendment of the Constitution, new election rules, laws concerning the judiciary or laws impacting vulnerable minorities, including the law that practically blocked LGBTQI people from adopting children or the piece of legislation that deprived segregated Roma children from claiming financial compensation for their moral damages.

We therefore recommend that the law on social consultations be amended to include safeguards guaranteeing meaningful social consultation, including the following:

- Prior consultations held in accordance with the pertaining law should be a precondition for laws to come into force;
- Use of omnibus legislation should be banned as a main rule, single subject rule should be introduced;
- Mechanisms should be introduced to ensure meaningful public consultations on Bills submitted by individual MPs.

#### **Attacks on judicial independence**

The Government has been trying to undermine the independence of the judiciary judicial independence since 2011. This decade of attacks on judicial independence included the lowering of

the mandatory retirement age of judges, terminating the mandate of the Supreme Court's President prematurely, attempting to set up a heavily government-controlled administrative court system, exerting pressure on critical judges, and the subordination of the administration of courts to the President of the National Office of the Judiciary (NOJ), an official elected by Parliament as a one-party candidate, with excessively wide powers in several areas, including the recruitment and promotion of judges.

In the second cycle, three recommendations called on Hungary to ensure the independence of the judiciary. However, judicial independence has been further weakened. The latest step was the appointment of a new Chief Justice without judicial experience, despite sweeping rejection by the representative body of Hungarian judges, the National Judicial Council (NJC). Hungary's worsening track record of the implementation of judgments of the European Court of Human Rights and the EU Court of Justice, coupled with the growing use of legislative overriding of judgments and harsh criticism by high-ranking politicians of judges and judgments in politically sensitive and still pending cases, clearly demonstrate the lack of respect for the independence of the judiciary.

In this area, we wish to draw attention to the following, selected recommendations:

- The NJC and other self-governing bodies of judges should be reinforced to counterbalance the extensive powers of the parliament-elected head of judicial administration. The NJC should be vested with independent legal personality and the right to independently dispose of its budget.
- Provisions allowing the President of the NOJ to appoint judicial leaders without the consent of any judicial body, through annulling calls for application and appointing interim leaders, should be repealed.
- The case allocation system should be automated and based on transparent grounds. Rules of case allocation shall be defined for a fixed term in a process involving judicial self-governing bodies.

### **Other concerns**

Our concerns regarding shrinking civic space, criminal justice, hate crimes, and the treatment of asylum seekers are described in detail in our submissions. As a general remark, it must be pointed out that in most areas, Hungary has been failing to implement even those recommendations that it supported in 2016. For instance, out of the 63 supported recommendations related to migrants and refugees, only 5 have been implemented, and even those only partially, reflecting a lack of will for meaningful compliance.

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Thank you for your attention!