



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-ninth session
1–12 November 2021

Compilation on Hungary

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1, 2}

2. The Committee on the Rights of the Child recommended that Hungary ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.³ The Committee on the Elimination of Racial Discrimination made a similar recommendation.⁴ The Special Rapporteur on the situation of human rights defenders encouraged the Government to ratify the international protocols and treaties that had yet to be ratified.⁵

3. The Human Rights Committee noted that Hungary should consider ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.⁶ The Working Group on discrimination against women and girls made a similar recommendation.⁷

III. National human rights framework⁸

4. The Human Rights Committee expressed its concern about the level of protection afforded in law and in practice to fundamental rights in Hungary, given that the Fundamental Law had been subject to frequent amendments, often in relation to laws that the Constitutional Court had earlier ruled unconstitutional. The Committee underlined that Hungary should respect the separation of powers and institutional checks and balances between elected institutions and the judicial institutions entrusted with protecting human rights.⁹ The Special Rapporteur on the independence of judges and lawyers expressed



concern that the President of the Supreme Court of Hungary was elected in spite of the manifest objection of the National Judicial Council.¹⁰

5. The Human Rights Committee indicated that Hungary should ensure that the Office of the Commissioner for Fundamental Rights had the financial and other resources necessary to implement its mandate effectively and independently.¹¹ The Special Rapporteur on the situation of human rights defenders stated that the amendments to the law and the lack of enforceability of the Ombudsman's recommendations had weakened protection in relation to certain rights and the effectiveness of the Ombudsman's mandate.¹²

6. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment noted that the national preventive mechanism did not have an identity distinct from that of the Office of the Commissioner for Fundamental Rights. The Subcommittee expressed its concern about the lack of functional independence of the mechanism within the Office of the Commissioner and recommended that the national preventive mechanism be enabled, by means of legislation, to effectively perform its core functions. It also recommended that the national preventive mechanism carry out a review of the existing legal acts governing its functioning.¹³

7. The Office of the United Nations High Commissioner for Human Rights (OHCHR) indicated that it was following with concern the government bill to extend what was termed a "state of danger" that was declared in response to the coronavirus disease (COVID-19) pandemic. The bill appeared to give the Government practically unlimited powers to rule by decree and bypass parliamentary scrutiny, with no clear cut-off date.¹⁴

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination¹⁵

8. The Committee on the Elimination of Racial Discrimination recommended that Hungary ensure that all legislation prohibiting racial discrimination include all grounds of discrimination, take effective measures to ensure the full and effective implementation of existing legal provisions prohibiting racial discrimination, facilitate effective access to justice and provide appropriate remedies for all victims of racial discrimination.¹⁶

9. The Committee on the Elimination of Racial Discrimination was deeply alarmed by the prevalence of racist hate speech in Hungary against Roma, migrants, refugees, asylum seekers and other minorities, in particular by public figures who made statements that might promote racial hatred. It recommended that Hungary take all immediate measures to stop racist hate speech and incitement to violence, publicly condemn and distance itself from racist hate speech by public figures and strengthen and implement relevant legislation, as well as effectively identify, register, investigate and prosecute cases of racist hate speech or incitement to racial hatred and sanction those responsible.¹⁷ The United Nations High Commissioner for Human Rights raised a similar concern.¹⁸ The Office of the United Nations High Commissioner for Refugees (UNHCR) made a related recommendation.¹⁹ The Special Rapporteur on the human rights of migrants noted that journalists from local media helped to fuel xenophobia and anti-migration attitude in the country²⁰ and called upon the Government and politicians at all levels to refrain from advocacy of ethnic or racial hatred and xenophobia that constituted incitement to discrimination, hostility or violence.²¹ The Human Rights Committee recommended that Hungary improve the reporting, investigation, prosecution and punishment of hate crimes and criminal hate speech, strengthen its efforts to eradicate stereotyping and discrimination against migrants, refugees, Jews and Roma and ensure that State officials responsible for discriminatory behaviour towards Roma and other minority groups were held accountable in all instances.²²

10. The Committee on the Elimination of Racial Discrimination expressed concern about the persistence of racist hate crimes, in particular against Roma. It recommended that Hungary take immediate measures to prevent racist hate crimes and racist violence and ensure the effective registration, investigation and prosecution of all reported hate crimes.²³ The Human Rights Committee indicated that Hungary should regularly, publicly and effectively reaffirm that any advocacy of ethnic or racial hatred that constituted incitement to discrimination, hostility or violence was prohibited by law that it and should act promptly to bring perpetrators of hate crimes to justice.²⁴

11. The Committee on the Rights of the Child urged Hungary to implement laws that prohibited discrimination against children in marginalized and disadvantaged situations.²⁵ It also urged Hungary to strengthen its measures aimed at eliminating discrimination against Roma children, through the adoption of a national action plan, and to increase support to the anti-segregation working groups created in 2017.²⁶

12. The Human Rights Committee expressed its concern that the ban on discrimination in the Fundamental Law did not explicitly list sexual orientation and gender identity among the grounds of discrimination and that its restrictive definition of family might give rise to discrimination. It was also concerned about the acts of violence and the prevalence of negative stereotypes and prejudice against lesbian, gay, bisexual and transgender persons. It underlined that Hungary should prohibit discrimination on all grounds and in all spheres and sectors, take the measures necessary to curb discrimination against lesbian, gay, bisexual and transgender persons with regard to family arrangements and ensure the effective identification, recording and investigation of acts of violence motivated by the sexual orientation or gender identity of the victims, and the prosecution and punishment of perpetrators.²⁷ The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity urged Hungary to drop proposed legislation that would deny trans and gender diverse people the right to legal recognition and self-determination.²⁸ Several other mandate holders also raised their concerns in that regard and indicated that couples, regardless of sexual orientation or gender identity, should be provided legal recognition.²⁹ The Working Group on discrimination against women and girls stressed that the formulation of family should be interpreted as including the diversity of families and that it should never be used to undermine women's reproductive rights.³⁰ It recommended that Hungary hold public figures accountable for sexist and abusive language and expressions affecting the dignity of women and lesbian, gay, bisexual, transgender and intersex persons, by applying fines or the penalty of exclusion from public proceedings.³¹

13. The Working Group on discrimination against women and girls encouraged the Government to give full effect to the constitutional guarantee of equality between women and men and to all aspects of its national strategy for the promotion of gender equality. It recommended that Hungary develop plans of action for implementing all priorities in the national strategy.³²

B. Civil and political rights

1. Right to life, liberty and security of person³³

14. The Human Rights Committee expressed its concern about allegations regarding the excessive use of force, including ill-treatment and torture, by law enforcement officials at the time of arrest and during interrogations and about the very low number of prosecutions and convictions in such cases. The Committee indicated that Hungary should ensure that prompt, impartial, thorough and effective investigations were carried out into all allegations of excessive use of force by law enforcement officers and that perpetrators were prosecuted and punished with appropriate sanctions. It added that the country should strengthen the Independent Police Complaints Board, expand its investigatory powers, ensure its independence in carrying out investigations of alleged misconduct by police officers and consider establishing an independent medical examination body mandated to examine alleged victims of torture.³⁴

2. Administration of justice, including impunity, and the rule of law³⁵

15. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity noted that the parliament of Hungary had given the Prime Minister power to rule by decree without consulting other lawmakers before making policy decisions during the COVID-19 crisis.³⁶ OHCHR recalled that, under international human rights law, emergency legislation and measures should be strictly temporary, limited to addressing the situation at hand and contain appropriate safeguards.³⁷

16. The Human Rights Committee indicated that Hungary should review the legislative framework governing the powers of the Constitutional Court with a view to reinstating its formal competencies and should take measures to guarantee and protect the full independence and impartiality of the judiciary. It added that Hungary should ensure that judges were appointed and promoted on the basis of objective criteria of competence and merit, and dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality established by law.³⁸ The Special Rapporteur on the situation of human rights defenders recommended that the Government strengthen the judiciary by ensuring that it could operate independently and effectively and establish an independent body to safeguard the independence of the judiciary.³⁹

17. The Committee on the Rights of the Child recommended that Hungary ensure that specialized and well-trained judges and judicial staff dealt with cases involving children, amend the law to re-establish a standardized minimum age of criminal responsibility of 14 years, regardless of the crime, and abolish the practice of sentencing children to prison terms for petty crimes.⁴⁰ The Human Rights Committee indicated that Hungary should raise the age of criminal responsibility from 12 to 14 years for all crimes.⁴¹

3. Fundamental freedoms⁴²

18. The Special Rapporteur on the situation of human rights defenders indicated that the Fundamental Law enshrined human rights as inalienable, interdependent and indivisible, however, its contents were specified through the so-called “cardinal” laws (organic laws). The Special Rapporteur cautioned against the use of legislation to overregulate, undermine or obstruct the work of human rights defenders.⁴³

19. The Special Rapporteur on the situation of human rights defenders was alarmed to observe that human rights defenders increasingly operated in a rather polarized and politicized environment.⁴⁴ Human rights defenders faced enormous pressure due to public criticism, stigmatization in the media, unwarranted inspections and a reduction in State funding. He expressed his concern about the reported breaches of due process against some non-governmental organizations.⁴⁵ The Committee on the Rights of the Child urged Hungary to ensure that non-governmental organizations could conduct their activities unimpeded in an environment conducive to human rights.⁴⁶ The Special Rapporteur on the situation of human rights defenders recommended that the Government mainstream human rights into the institutional and policy framework, including by adopting a national plan of action on human rights with clear and specific goals and indicators. He also recommended that the Government adopt an approach of zero tolerance towards the stigmatization and intimidation of defenders, whether by public officials or non-State actors, and investigate instances where non-State actors commit violations against defenders, resulting in the prosecution of those responsible and provision of remedy to the survivors.⁴⁷

20. The Human Rights Committee expressed concern about unreasonable, burdensome and restrictive conditions imposed on some non-governmental organizations receiving foreign funding under the Act on the Transparency of Organizations Supported from Abroad.⁴⁸ Both the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression urged the Government to withdraw the proposed bill on the transparency of organizations supported from abroad, as it would curtail the rights to freedom of expression and freedom of peaceful assembly and association in Hungary.⁴⁹

21. The Human Rights Committee noted with concern that the Media Council and the National Media and Infocommunications Authority lacked sufficient independence to perform their functions and had excessively broad regulatory and sanctioning powers. The

Committee recommended that Hungary revise its laws and practice with a view to guaranteeing the full enjoyment of freedom of expression by everyone in practice.⁵⁰ The Special Rapporteur on the situation of human rights defenders indicated that media laws had yet to be brought into full compliance with international standards.⁵¹

22. The Special Rapporteur on the situation of human rights defenders noted that defamation remained a criminal offence in Hungary and that it was a charge regularly brought against investigative journalists, defenders and watchdog organizations.⁵² The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Hungary decriminalize defamation and place it solely within the civil code.⁵³

4. Prohibition of all forms of slavery⁵⁴

23. The Human Rights Committee expressed concern about allegations of the persistence of trafficking in human beings and noted that the country should continue its efforts to combat it, ensure that all individuals responsible for trafficking in persons were prosecuted and received punishment commensurate with the crimes committed and ensure that victims received adequate reparation and compensation.⁵⁵ The Working Group on discrimination against women and girls recommended that Hungary further develop tools for identifying trafficking victims to ensure proper protection.⁵⁶

5. Right to privacy⁵⁷

24. The Human Rights Committee expressed its concern about the legal framework of Hungary on secret surveillance for national security purposes and about the lack of provisions for effective remedies in cases of abuse. It recommended that Hungary increase the transparency of the powers of the legal framework on secret surveillance and the safeguards against its abuse.⁵⁸

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁵⁹

25. The Working Group on discrimination against women and girls enumerated the reasons for the significantly lower rates of participation of women in the labour force.⁶⁰ It recommended that the Government take measures to increase the number of women in economic decision-making positions, require employers to give equal pay for work of equal value, encourage the sharing of childcare responsibilities by fathers through legal amendments, take measures for childcare support that targeted parents with smaller families and low-income families, increase the number of nurseries for children under 3 years of age, improve the remedies for discrimination in employment and increase resources for the education of disadvantaged children.⁶¹

2. Right to an adequate standard of living⁶²

26. The Committee on the Rights of the Child recommended that Hungary continue to invest in measures to end poverty, paying particular attention to Roma children and children living in socioeconomically deprived areas.⁶³

3. Right to health⁶⁴

27. The Committee on the Rights of the Child recommended that Hungary ensure that all children benefited in practice from the mandatory health services, free of charge, and ensure that health-care facilities were available throughout the country.⁶⁵ It urged Hungary to ensure that children had access to confidential and child-friendly sexual and reproductive health services, eliminate the need for parental permission for adolescents to access sexual and reproductive health services and psychological care, provide children with education on sexual and reproductive health as part of the mandatory school curriculum, strengthen its measures to prevent the use of tobacco, alcohol and drugs and to provide rehabilitation services for those in need, invest in addressing the underlying causes of mental health

conditions and promoting their awareness of and access to psychological support services and increase the availability of online mental health services and web-based counselling.⁶⁶

28. The Working Group on discrimination against women and girls recommended that Hungary adopt a holistic approach to the health of women and girls, ensure access to medical services, without discrimination on the grounds of gender or ethnicity, remove barriers to sexual and reproductive health services, address the high rate of caesarean section and ensure that sexuality education was age-appropriate, comprehensive and inclusive.⁶⁷ It also indicated that Roma women disproportionately suffered from discrimination in terms of access to health services and lacked adequate access to family planning services, modern methods of contraception and regular gynaecologist consultations.⁶⁸ The Committee on the Rights of Persons with Disabilities recommended that Hungary eradicate forced contraception and forced abortion among women with disabilities.⁶⁹

29. The Special Rapporteur on the human rights of migrants expressed his concern about the lack of appropriate medical and psychological care and treatment in the “transit zones”.⁷⁰ He urged Hungary to improve access to medical services and legal assistance for all asylum seekers held in the transit zones.⁷¹

4. Right to education⁷²

30. The Committee on the Rights of the Child expressed its serious concern about the number of students leaving school early, the continuing segregation of Roma children in special education and the increased gap in attainment between Roma and non-Roma children at various levels of education. The Committee urged Hungary to re-establish compulsory education until 18 years of age, strengthen efforts to eliminate discrimination against Roma children in schools and take prompt measures to close the gap in attainment between Roma and non-Roma children in primary education.⁷³ UNESCO made similar recommendations.⁷⁴ The Human Rights Committee indicated that Hungary should adopt measures to monitor and effectively eradicate the educational segregation of Roma children and ensure that education was provided to all Roma children on a non-discriminatory basis.⁷⁵

31. The Human Rights Committee noted with concern the amendment introduced in 2017 to the Act on National Higher Education, which imposed disproportionate restrictions on the operation of foreign-accredited universities, and it noted the lack of sufficient justification for the imposition of such constraints on freedom of thought, expression and association, as well as academic freedom. It indicated that Hungary should revise the recent amendments to the Act.⁷⁶ The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression urged the parliament to reconsider the new law targeting Central European University.⁷⁷

D. Rights of specific persons or groups

1. Women⁷⁸

32. The Working Group on discrimination against women and girls indicated that the representation of women in the parliament was one of the lowest in the European Union and globally, representing a clear lack of political will to empower women.⁷⁹ Underlying that situation was the pervasive and flagrant stereotyping of women, with repeated statements made by some public figures to the effect that women were unsuited to political power and the insistence on a woman’s role as primarily a wife and a mother.⁸⁰ The Working Group added that significant measures should be taken to eliminate those forms of stereotyping and discrimination, including by censuring the sexist rhetoric of public figures.⁸¹ It recommended that Hungary take special measures to increase the representation of women in the country’s political life and in senior positions in the public administration and ensure a better gender balance in the process of making new appointments to the Constitutional Court.⁸² The Human Rights Committee raised a similar concern, noted with concern the discriminatory comments against women made by political figures and made similar recommendations.⁸³

33. The Human Rights Committee expressed its concern about reports that domestic violence continued to be a persistent and underreported problem, that the police response to

such cases and the mechanisms to protect and support victims were inadequate and that access to shelters remained insufficient. The Committee noted with concern that the Criminal Code did not fully protect women who were victims of domestic violence. It recommended that Hungary ensure that cases of domestic violence were reported, recorded and thoroughly investigated, perpetrators were prosecuted and punished with appropriate sanctions and victims had access to effective remedies and means of protection. It added that Hungary should strengthen the legal framework for the protection of women against domestic and sexual violence.⁸⁴

2. Children⁸⁵

34. The Committee on the Rights of the Child urged Hungary to establish a single body responsible for children's rights with a clear mandate and sufficient authority.⁸⁶ The Committee urged Hungary to strengthen the work of the Equal Treatment Authority to address discrimination against children with disabilities and Roma children.⁸⁷

35. The Committee on the Rights of the Child urged Hungary to develop a national strategy to prevent and address all forms of violence against children, to clearly inform children about the procedures available for reporting cases of violence, to put into place child-sensitive mechanisms to facilitate and promote the reporting of cases and to ensure that such cases were promptly recorded and investigated and that perpetrators were prosecuted and duly sanctioned. It also urged Hungary to consider expanding the application of the regulations for investigating and addressing cases of the abuse of children and young adults to all settings and instances.⁸⁸

36. The Committee of the Rights of Child urged Hungary to effectively implement the prohibition on the use of all forms of corporal punishment in all settings, including the home, schools and alternative care institutions.⁸⁹ UNESCO recommended that Hungary pursue its efforts to ensure that schools complied with the legislation prohibiting corporal punishment and adopt measures to prevent bullying, abuse and exclusion of children.⁹⁰

37. The Committee on the Rights of the Child urged Hungary to urgently phase out the institutionalization of children, while redirecting funds towards families, ensure that records of the ethnic origin of children in the child protection system were collected and analysed, increase the number of foster families countrywide and invest in the training and supervision of professionals working in alternative care. It also urged Hungary to ensure that children in alternative care settings had access to confidential and child-sensitive complaint mechanisms and were able to report cases of misconduct.⁹¹

38. The Committee on the Rights of the Child recommended that Hungary amend its Civil Code to eliminate any exception to the minimum age of marriage of 18 years for girls and boys.⁹²

39. With regard to migrant children, the Committee on the Rights of the Child urged Hungary to amend the asylum law and to repeal the amendment to section 4 (1) (c) of the Act on the Protection of Children and the Administration of Guardianship in order to cover all children.⁹³ The Human Rights Committee recommended that Hungary ensure that children and unaccompanied minors were not detained.⁹⁴

40. The Committee on the Rights of the Child was seriously concerned about the inadequate nutrition provided to children over 14 years of age in the transit zones and the fact that education certificates issued to children in transit zone schools were not valid in Hungary.⁹⁵ The Human Rights Committee expressed its concern that the age assessment of child asylum seekers and unaccompanied minors conducted in the transit areas relied heavily on visual examination by an expert and that such children lacked adequate access to education, social and psychological services and legal aid.⁹⁶ The Committee on the Rights of the Child raised a similar concern.⁹⁷

41. With regard to the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child recommended that Hungary amend Act C of 2012 on the Criminal Code to extend the increased protection from sexual violence committed against children to all children under 18 years of age and make the legal amendments necessary to

ensure that all children subjected to any form of sexual exploitation, sale or trafficking were treated as victims and were not subjected to criminal sanctions.⁹⁸

42. On the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Committee on the Rights of the Child urged Hungary to develop mechanisms for the early identification of asylum-seeking, refugee and migrant children who might have been recruited or used in hostilities abroad and to ensure that children were not subjected to military training that involved the use of firearms.⁹⁹

3. Persons with disabilities¹⁰⁰

43. In the context of its inquiry concerning Hungary under article 6 of the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the Committee on the Rights of Persons with Disabilities recommended that Hungary eliminate any role of the Guardianship Authority in the appointment, supervision and training of supporters under the supported decision-making regime, repeal sections 69 and 70 of the Social Act, on “specialized social care”, so that no person with disabilities may be institutionalized on the grounds of impairment, recognize the right of all persons with disabilities to live independently and be included in the community as an individual and directly enforceable right and develop a system of support for the independent living of persons with disabilities.¹⁰¹ The Committee also recommended that Hungary prevent any further placement of persons with disabilities in any institutional setting by halting programmes that developed institutions.¹⁰² The Human Rights Committee addressed similar issues.¹⁰³

44. The Committee on the Rights of Persons with Disabilities indicated that the laws, policies and practices of Hungary, which often resulted in persons with disabilities being placed under guardianship, and in many cases being institutionalized, resulted in grave and systematic violations of their rights. The Committee recommended that Hungary abolish guardianship regimes, end institutionalization on the basis of disability, provide reparations for persons with disabilities seeking redress for being institutionalized and redirect financial resources to support independent living and inclusion in the community.¹⁰⁴

45. The Human Rights Committee indicated that Hungary should ensure that standardized procedures based on scientific methods were used by all experts assessing whether children had disabilities.¹⁰⁵ The Committee on the Rights of Persons with Disabilities recommended that Hungary end the segregation of persons with disabilities in education.¹⁰⁶

4. Minorities¹⁰⁷

46. The Human Rights Committee expressed concern about reports that the Roma community continued to suffer from widespread discrimination and exclusion, unemployment and housing and educational segregation. It indicated that Hungary should increase its efforts to promote non-discriminatory access to opportunities and services in all fields for members of the Roma community.¹⁰⁸

47. The Committee on the Elimination of Racial Discrimination remained highly concerned about the persistence of discrimination against Roma and the segregation and extreme poverty that they faced.¹⁰⁹ The Committee recommended that Hungary take all measures to eliminate structural discrimination against Roma, end all segregation in education faced by Roma children and take effective measures to improve the rates of school attendance and rates of school completion among Roma children and to improve their educational opportunities and achievements. It also recommended that Hungary take measures to end extreme poverty among Roma, ensure that all Roma had full and unhindered access to health care without discrimination and harassment and take effective measures to end unemployment among Roma and to eliminate the income gap. The Committee further recommended that Hungary take measures to end hate crimes against Roma and ensure the proper registration and investigation of any cases of hate crime and the prosecution and conviction of perpetrators, prevent all ethnic profiling by law enforcement and prevent hate speech against Roma.¹¹⁰

5. Migrants, refugees and asylum seekers¹¹¹

48. The Special Rapporteur on the human rights of migrants indicated that, in 2015, the Government of Hungary declared a “crisis situation due to mass immigration”¹¹² and, in response, undertook a security-oriented approach reflected in a series of very restrictive measures.¹¹³ The Special Rapporteur urged the Government to reassess its security-oriented narrative in migration governance and to move towards a human rights-based approach.¹¹⁴ The Special Rapporteur was particularly concerned that civil society organizations did not have access to the transit zones for monitoring activities, but that attorneys of non-governmental organizations could access the transit zones in their personal capacity to provide legal aid.¹¹⁵

49. The Special Rapporteur on the human rights of migrants observed that non-governmental organizations working on the rights of migrants in Hungary experienced multiple obstacles in carrying out their legitimate and important work and reported that a number of civil society organizations had been subjected to smear campaigns.¹¹⁶ He urged Hungary to grant civil society organizations access to the transit zones to ensure the provision of services.¹¹⁷ UNHCR considered that providing assistance to asylum seekers and refugees could not be made unlawful, because it would undermine core international standards, namely, the right to seek asylum and the prohibition of refoulement.¹¹⁸ The Working Group on Arbitrary Detention suspended its visit to Hungary in November 2018, after having been denied access to the Röszke and Tompa transit zones at the border with Serbia.¹¹⁹

50. The Special Rapporteur on the human rights of migrants urged Hungary to end the practice of automatically confining all asylum seekers to the transit zones, explore alternatives to detention for all asylum seekers, improve the physical conditions of, and lift restrictions on freedom of movement in, the transit zones.¹²⁰ The Special Rapporteur concluded that confinement to the transit zones in many cases constituted the de facto deprivation of liberty of the asylum seekers.¹²¹ The Committee on the Elimination of Racial Discrimination and the Human Rights Committee raised similar concerns.¹²²

51. The Special Rapporteur on the human rights of migrants indicated that prolonged administrative detention of asylum seekers without the possibility of an administrative or judicial review or remedy amounted to arbitrary detention.¹²³ UNHCR indicated that the Court of Justice of the European Union had concluded that the placement of individuals in the transit zones amounted to detention, following which the Government transferred all asylum seekers from the transit zones to open facilities.¹²⁴

52. The Special Rapporteur on the human rights of migrants recalled the infringement procedures that the European Commission had initiated against Hungary; the Commission had found that Hungarian legislation was incompatible with European Union law, in particular regarding asylum procedures in the transit zones, conditions of reception and decisions on return.¹²⁵ UNHCR made similar observations and considered that the new asylum procedure introduced by Hungary in 2020, as well as components of domestic legislation introduced earlier, were not consistent with the right to seek asylum and exposed asylum seekers to a risk of refoulement, contrary to international refugee and human rights law and European Union law.¹²⁶

53. UNHCR reported that, in 2020, Hungary had introduced a new procedure in domestic law in response to the COVID-19 pandemic, in effect until June 2021, which had effectively denied asylum seekers the right to access to fair and efficient asylum procedures and had exposed them to a risk of direct or indirect refoulement.¹²⁷ UNHCR recommended that Hungary amend national legislation to safeguard the right to seek and enjoy asylum and the prohibition of refoulement.¹²⁸ The Committee on the Elimination of Racial Discrimination recommended that Hungary take all measures to ensure the full respect of the principle of non-refoulement and prevent the excessive use of force and ensure training for, and effective and independent monitoring of, law enforcement personnel involved with refugees, migrants and asylum seekers, to eliminate ill-treatment.¹²⁹ The Human Rights Committee and the Special Rapporteur on the human rights of migrants conveyed similar concerns and recommendations.¹³⁰

54. The Human Rights Committee noted with concern the package of three draft laws known as the “Stop Soros” package, which imposed serious restrictions on the operations of

civil society organizations and of critics of the immigration policy of Hungary.¹³¹ Several United Nations human rights experts expressed serious concern about the tough new measures to stop migrants and refugees from entering Hungary, as well as the increased number of threats made against civil society actors, and mentioned the “Stop Soros” law.¹³² On several occasions in 2018, OHCHR and the High Commissioner also condemned the decision by the parliament of Hungary to pass legislation that criminalized individuals and groups deemed to be supporting asylum seekers, refugees and undocumented migrants.¹³³

55. The Special Rapporteur on the human rights of migrants reported the introduction of a so-called “special tax on immigration”. Based on the new regulation, a tax of 25 per cent was imposed on the financial support provided for any activities supporting or promoting immigration in Hungary.¹³⁴ Several non-governmental organizations that had previously received funding from the European Union Asylum, Migration and Integration Fund through the Ministry of the Interior for projects providing humanitarian or integration support to migrants, asylum seekers and refugees, no longer received any funds, and, at the beginning of 2018, the Ministry had withdrawn all calls for tenders under the Fund.¹³⁵

6. Stateless persons¹³⁶

56. The Committee on the Rights of the Child urged Hungary to amend the Citizenship Act to prevent statelessness among children of foreign parents unable to confer their nationality on children born abroad, and of children of recognized stateless persons who had no established residence in the country. It also urged Hungary to ensure that those children were able to obtain Hungarian nationality according to a clear process and rules applied uniformly throughout the country.¹³⁷

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Hungary will be available from www.ohchr.org/EN/HRBodies/UPR/Pages/HUIndex.aspx.
- ² For relevant recommendations, see A/HRC/33/9, paras. 128.1–128.20 and 128.41–128.45.
- ³ CRC/C/HUN/CO/6, paras. 44–45.
- ⁴ CERD/C/HUN/CO/18-25, para. 28.
- ⁵ A/HRC/34/52/Add.2, para. 8.
- ⁶ CCPR/C/HUN/CO/6, para. 26.
- ⁷ A/HRC/35/29/Add.1, para. 102 (a).
- ⁸ For relevant recommendations, see A/HRC/33/9, paras. 128.24 and 128.26–128.33.
- ⁹ CCPR/C/HUN/CO/6, paras. 5–6.
- ¹⁰ See HUN 2/2021. Available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26371>.
- ¹¹ CCPR/C/HUN/CO/6, para. 14.
- ¹² A/HRC/34/52/Add.2, para. 107 (g).
- ¹³ CAT/OP/HUN/2, paras. 14, 17 and 19.
- ¹⁴ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25750&LangID=E>.
- ¹⁵ For relevant recommendations, see A/HRC/33/9, paras. 128.22, 128.46–128.52, 128.66–128.70, 128.72, 128.77–128.80, 129.90, 128.96–128.103, 128.105–128.122 and 128.169.
- ¹⁶ CERD/C/HUN/CO/18-25, paras. 9 and 11.
- ¹⁷ *Ibid.*, paras. 16–17. See also para. 20 (i).
- ¹⁸ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22765>.
- ¹⁹ Submission by the Office of the United Nations High Commissioner for Refugees (UNHCR) for the Office of the United Nations High Commissioner for Human Rights (OHCHR) compilation report on Hungary, pp. 4–5.
- ²⁰ A/HRC/44/42/Add.1, para. 5.
- ²¹ *Ibid.*, para. 70.
- ²² CCPR/C/HUN/CO/6, para. 18. See also A/HRC/44/42/Add.1, para. 70.
- ²³ CERD/C/HUN/CO/18-25, paras. 14–15.
- ²⁴ CCPR/C/HUN/CO/6, para. 18.
- ²⁵ CRC/C/HUN/CO/6, para. 16 (a).
- ²⁶ *Ibid.*, para. 16 (b).
- ²⁷ CCPR/C/HUN/CO/6, paras. 19–20.

- 28 See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25844&LangID=E>.
- 29 See HUN 3/2020. Available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25765>.
- 30 A/HRC/35/29/Add.1, para. 90.
- 31 Ibid., para. 100 (d).
- 32 Ibid., paras. 94 and 97 (b).
- 33 For relevant recommendations, see A/HRC/33/9, paras. 128.127–128.129.
- 34 CCPR/C/HUN/CO/6, paras. 35–36.
- 35 For relevant recommendations, see A/HRC/33/9, paras. 128.150–128.156.
- 36 See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25844..>
- 37 See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=25750>.
- 38 CCPR/C/HUN/CO/6, paras. 11–12.
- 39 A/HRC/34/52/Add.2, para. 107 (k) and (l).
- 40 CRC/C/HUN/CO/6, para. 40.
- 41 CCPR/C/HUN/CO/6, paras. 29–30.
- 42 For relevant recommendations, see A/HRC/33/9, paras. 128.23, 128.36–128.40, 128.58, 128.64–128.65, 128.104 and 128.157–128.168.
- 43 A/HRC/34/52/Add.2, paras. 16–17 and 105.
- 44 Ibid., para. 15.
- 45 Ibid., paras. 46–48 and 52.
- 46 CRC/C/HUN/CO/6, para. 14.
- 47 A/HRC/34/52/Add.2, para. 107 (d) and (p).
- 48 CCPR/C/HUN/CO/6, para. 53.
- 49 See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21617&LangID=E>.
See also <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21493&LangID=E>.
- 50 CCPR/C/HUN/CO/6, paras. 57–58.
- 51 A/HRC/34/52/Add.2, para. 27.
- 52 Ibid., para. 31.
- 53 Contribution of the United Nations Educational, Scientific and Cultural Organization (UNESCO): Hungary, para. 11.
- 54 For relevant recommendations, see A/HRC/33/9, paras. 128.142–128.149.
- 55 CCPR/C/HUN/CO/6, paras. 27–28.
- 56 A/HRC/35/29/Add.1, paras. 87 and 102 (e).
- 57 For relevant recommendations, see A/HRC/33/9, paras. 128.22 and 128.126.
- 58 CCPR/C/HUN/CO/6, paras. 43–44.
- 59 For relevant recommendations, see A/HRC/33/9, paras. 128.62 and 128.169.
- 60 A/HRC/35/29/Add.1, para. 36.
- 61 Ibid., paras. 40 and 99.
- 62 For relevant recommendations, see A/HRC/33/9, paras. 128.192–128.193, 128.209 and 128.211.
- 63 CRC/C/HUN/CO/6, para. 34.
- 64 For relevant recommendations, see A/HRC/33/9, paras. 128.85, 128.87–128.88, 128.137 and 128.171–128.172.
- 65 CRC/C/HUN/CO/6, para. 31.
- 66 Ibid., para. 33.
- 67 A/HRC/35/29/Add.1, para. 101.
- 68 Ibid., para. 77.
- 69 CRPD/C/HUN/IR/1, para. 115 (c).
- 70 A/HRC/44/42/Add.1, para. 29.
- 71 Ibid., para. 65 (e).
- 72 For relevant recommendations, see A/HRC/33/9, paras. 128.175–128.176.
- 73 CRC/C/HUN/CO/6, paras. 35–36.
- 74 Contribution of UNESCO, para. 10.
- 75 CCPR/C/HUN/CO/6, para. 16.
- 76 Ibid., paras. 51–52.
- 77 See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21493&LangID=E>.
- 78 For relevant recommendations, see A/HRC/33/9, paras. 128.25, 128.34, 128.52–128.65, 128.128–128.138 and 128.171–128.172.
- 79 A/HRC/35/29/Add.1, paras. 27 and 31. See also CEDAW/C/HUN/Q/9, paras. 16 and 11.
- 80 A/HRC/35/29/Add.1, para. 92.
- 81 Ibid.
- 82 Ibid., para. 98.
- 83 CCPR/C/HUN/CO/6, paras. 23–24.

- ⁸⁴ Ibid., paras. 25–26. See also CEDAW/C/HUN/Q/9, paras. 12–14.
- ⁸⁵ For relevant recommendations, see A/HRC/33/9, paras. 128.25, 128.34, 128.123, 128.125 and 128.139–128.141.
- ⁸⁶ CRC/C/HUN/CO/6, para. 9.
- ⁸⁷ Ibid., para. 16 (c).
- ⁸⁸ Ibid., para. 24.
- ⁸⁹ Ibid., para. 25 (a).
- ⁹⁰ Contribution of UNESCO, para. 10.
- ⁹¹ CRC/C/HUN/CO/6, para. 28.
- ⁹² Ibid., para. 15.
- ⁹³ Ibid., para. 39.
- ⁹⁴ CCPR/C/HUN/CO/6, para. 46.
- ⁹⁵ CRC/C/HUN/CO/6, para. 38.
- ⁹⁶ CCPR/C/HUN/CO/6, para. 49.
- ⁹⁷ CRC/C/HUN/CO/6, para. 38.
- ⁹⁸ Ibid., para. 42.
- ⁹⁹ Ibid., para. 43.
- ¹⁰⁰ For relevant recommendations, see A/HRC/33/9, paras. 128.177–128.183.
- ¹⁰¹ CRPD/C/HUN/IR/1, paras. 110–112.
- ¹⁰² Ibid., para. 114.
- ¹⁰³ CCPR/C/HUN/CO/6, paras. 21–22.
- ¹⁰⁴ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25799&LangID=E>. See also CRPD/C/HUN/IR/1, paras. 107, 110–111 and 114.
- ¹⁰⁵ CCPR/C/HUN/CO/6, para. 16.
- ¹⁰⁶ CRPD/C/HUN/IR/1, para. 113 (c).
- ¹⁰⁷ For relevant recommendations, see A/HRC/33/9, paras. 128.67, 128.72–128.78, 128.81, 128.84–128.89, 128.91–128.103, 128.105–128.122 and 128.173–128.174.
- ¹⁰⁸ CCPR/C/HUN/CO/6, paras. 15–16.
- ¹⁰⁹ CERD/C/HUN/CO/18-25, para. 20. See also CCPR/C/HUN/CO/6, para. 15.
- ¹¹⁰ CERD/C/HUN/CO/18-25, para. 21.
- ¹¹¹ For relevant recommendations, see A/HRC/33/9, paras. 128.79 and 128.184–128.220.
- ¹¹² A/HRC/44/42/Add.1, para. 22.
- ¹¹³ Ibid., para. 6.
- ¹¹⁴ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24831&LangID=E>.
- ¹¹⁵ A/HRC/44/42/Add.1, para. 59.
- ¹¹⁶ Ibid., para. 55.
- ¹¹⁷ Ibid., para. 65 (g).
- ¹¹⁸ UNHCR submission, p. 3.
- ¹¹⁹ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879&LangID=E>.
- ¹²⁰ A/HRC/44/42/Add.1, para. 65.
- ¹²¹ Ibid., para. 33.
- ¹²² CERD/C/HUN/CO/18-25, paras. 22–23; and CCPR/C/HUN/CO/6, paras. 45–46.
- ¹²³ A/HRC/44/42/Add.1, para. 69.
- ¹²⁴ UNHCR submission, p. 2.
- ¹²⁵ A/HRC/44/42/Add.1, paras. 12–15.
- ¹²⁶ UNHCR submission, pp. 2–3.
- ¹²⁷ Ibid., p. 2.
- ¹²⁸ Ibid., p. 4.
- ¹²⁹ CERD/C/HUN/CO/18-25, para. 25.
- ¹³⁰ CCPR/C/HUN/CO/6, paras. 47–48; and A/HRC/44/42/Add.1, para. 47.
- ¹³¹ CCPR/C/HUN/CO/6, para. 55.
- ¹³² See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23533&LangID=E..>
- ¹³³ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23239&LangID=E;> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E;> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22765&LangID=E;> and <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22665&LangID=E..>
- ¹³⁴ A/HRC/44/42/Add.1, para. 57.
- ¹³⁵ Ibid., para. 58.
- ¹³⁶ For the relevant recommendation, see A/HRC/33/9, para. 128.5.
- ¹³⁷ CRC/C/HUN/CO/6, para. 19.