



HUNGARY

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 39TH SESSION OF THE UPR WORKING GROUP, 1-12 NOVEMBER 2021

FOLLOW UP TO THE PREVIOUS REVIEW

1. Hungary accepted 189 out of 209 recommendations made during its last review, including to ensure consultative processes which allow a public debate and interaction with independent civil society¹, to refrain from targeting or restricting the activities of civil society organizations based on their political affiliation or their receipt of foreign funding², to adopt and implement a comprehensive strategy and action plan to tackle discrimination based on sexual orientation and gender identity³, to continue efforts in order to prevent domestic violence and violence against women and adopt a comprehensive law on domestic violence⁴, and to adopt a comprehensive, human rights-based gender equality strategy.⁵
2. Little overall progress has been made towards the implementation of many of these recommendations. Disappointingly, there has been backsliding in the protection and promotion of many rights, including in constitutional protections for asylum seekers, the homeless and LGBTI people. New laws target NGOs, human rights defenders and one specific foreign university.
3. Despite accepting recommendations to ratify the Convention on preventing and combating violence against women (Istanbul Convention) and update current legislation⁶, Hungary has not done so. Rather, there is an increasingly hostile environment for women's rights activists and civil society organizations whose calls for ratification since 2014 have been dubbed "political whining".⁷ The Hungarian Parliament adopted a declaration submitted by a governing party in May 2020 not to ratify the Convention on the grounds that it "supports illegal migration" and "prescribes dangerous gender ideologies".⁸

THE NATIONAL HUMAN RIGHTS FRAMEWORK

4. In March 2020, Parliament adopted the Bill on Protection against the Coronavirus (T/9790). It extended the government's power to rule by decree by absolving it from parliamentary scrutiny, without providing a clear cut-off date. While the bill was replaced in mid-June, the government continued to uphold a set of transitional powers allowing restrictions of human rights, such as the right to freedom of peaceful assembly, and curtailing access to asylum.⁹

5. Amendments of the Criminal Code accepted in March 2020 increased penalties for the crime of “imparting or conveying false information” related to the COVID-19 pandemic, including about the government’s response to the pandemic. It criminalized obstruction of the enforcement of a quarantine or isolation order.¹⁰
6. The Fundamental Law (Hungary’s Constitution) declares that “the inviolable and inalienable fundamental rights of man must be respected”¹¹, but amendments of the Fundamental Law in 2018 and 2020 restricted the rights of asylum seekers, homeless and LGBTI people, and narrowed the definition of marriage and the family.¹²
7. The main stipulations of the June 2018 amendment were that alien populations cannot be settled in Hungary, that protection of Hungary’s constitutional identity and Christian culture is the obligation of all organs of the state, that the exercise of the rights to freedom of expression and peaceful assembly cannot entail interference in the private and family lives of others or involve trespassing in their homes. It also banned homelessness by referring to the protection of the public use of public space, further stigmatizing homeless people while violating human dignity.¹³
8. The December 2020 amendments of the Fundamental Law stipulate that children’s gender identity is restricted to their sex assigned at birth, that their upbringing must reflect the values based on Hungary’s constitutional identity and Christian culture and that family ties must be based on marriage, where “the mother is a woman and the father is a man.”¹⁴
9. A new law in May 2020 banned legal gender recognition for transgender and intersex people.¹⁵ The Act XXX of 2020 requires the recording of the individuals’ sex assigned at birth in the national registry of birth, marriages and deaths, which cannot later be changed.¹⁶ On March 2021, the Hungarian Constitutional Court annulled the provision of the law which extended the prohibition of legal gender recognition to ongoing proceedings.¹⁷
10. An omnibus bill adopted in November 2020 stipulated that only married couples should be allowed to adopt children, while single people can adopt by special permission of the Minister without Portfolio for Family Affairs.
11. The Parliament passed three laws in 2017 and 2018 whose effect was to stigmatise NGOs critical towards the government, violating the right to freedom of association.¹⁸ The first (LEXNGO) required NGOs receiving foreign funding (EU funding included) to register as “foreign-funded” and disclose the personal data of their donors.¹⁹ The second legislative package criminalized the human rights work of those who support asylum-seekers, refugees and migrants, and the third imposed a “special immigration tax” of 25% on all funding on activities “supporting immigration” in Hungary.²⁰ The Council of Europe’s Venice Commission called on the government to withdraw all three laws.²¹
12. A new Law of Higher Education (known as Lex CEU) entered into force in 2017 which prevents foreign-owned universities that do not provide courses in their country of origin or whose country of origin does not have a bilateral agreement with Hungary from operating locally.²²
13. Legislation that came into force in July 2019 increased government influence over the research institutes of the Hungarian Academy of Sciences, raising concerns about the independence of future academic research.²³

THE HUMAN RIGHTS SITUATION ON THE GROUND

DISCRIMINATION RELATED TO MARRIAGE AND FAMILY AND THE RIGHTS OF CHILDREN

14. The ban on legal gender recognition made it impossible to obtain documents that reflect gender identity. This particularly affects those individuals whose appearance, gender expression or gender identity may not match their sex assigned at birth on their official documents. Many communities – especially in smaller villages – are actively ostracizing their trans members.²⁴
15. The omnibus bill accepted in December 2020 prevents LGBTI people from adopting children, as same-sex marriage is not legalised in Hungary, and same-sex partners do not have adoption rights. Previously LGBTI people could have adopted children, not as a couple, but as individuals. This also violates children's rights to living and being brought up in a family, even in a single parent family.²⁵

FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY

16. The Lex CEU targeted especially the CEU (Central European University) which was forced to leave the country. In November 2020, the CJEU found that the law is contrary to the provisions of the Charter of Fundamental Rights of the EU relating to academic freedom and the freedom to found higher education institutions.²⁶ The Hungarian Justice Minister said that Hungary will implement the judgement, but nothing has happened as of March 2021.²⁷
17. The adoption of the LEXNGO in 2017 legalized stigmatization of NGOs for the first time. The Court of Justice of the European Union (CJEU) later ruled that Hungary had introduced discriminatory and unjustified restrictions.²⁸ Despite the judgement having immediate effect, Hungary had not repealed the LEXNGO by mid-March 2021. After the decision of the CJEU, a government-founded public foundation distributing EU-funds rejected one NGO's grant application over non-compliance with LEXNGO.²⁹
18. The LEXNGO 2018 criminalized a range of legitimate activities, including the provision of legal support to migrants and refugees. The criminalization of such activities is a direct assault on the work of civil society. After LEXNGO 2018 came into force, social service providers and integration organizations dealing with asylum-seekers have lost up to two-thirds of their previous funding. Municipal institutions have also suspended the provision of services for refugees.³⁰ An NGO has changed its name, stating that the word "migrant" makes it difficult to operate.³¹
19. All these laws severely restricted civic space and had a strong chilling effect on NGO activities. They have diverted NGOs' resources away from their core activities to defending themselves and finding a way of operating where pressure, including smear campaigns orchestrated by government-aligned media, is a part of daily life. Employees of NGOs have sometimes received death threats by phone or in email or messages via social media.³²
20. After amending the Criminal Code in March 2020 to increase penalties for the crime of "imparting or conveying false information" related to the pandemic, two activists critical of the government were briefly detained and questioned, but their cases were not taken forward by the prosecutor's office.³³
21. In July 2020, nearly 100 journalists resigned from Index, the country's largest independent online news portal, in response to the dismissal of its editor-in-chief. The editors had publicly announced that their independence was in danger following the takeover of the portal's advertising branch by a media executive

with close ties with the government.³⁴

DISCRIMINATION AGAINST WOMEN

22. Women continue to experience widespread gender discrimination. Many government policies and communications have actively reinforced gender stereotyping, promoting a women's role in raising children and caring for the family.³⁵ These particularly affect women of lower socio-economic status.
23. The COVID-19 pandemic has further exacerbated gender inequality due to the general unwillingness of employers to provide for flexible working arrangements and the traditional allocation of care duties within the family which are mainly seen as a woman's responsibility.³⁶
24. Gender discrimination against pregnant women and women having young children is widespread across the different sectors of the labour market in Hungary, violating human rights obligations with respect to the employment rights of women, including the principle of non-discrimination and equal treatment.³⁷ One of the main reasons is shortcomings and significant loopholes in the relevant Hungarian laws, including the Labour Code. The other is the incomplete transposition of relevant international human rights obligations into domestic legislation.
25. In recent years, the government has taken steps to improve the conditions of women's employment with a particular focus on those having young children.³⁸ However, these measures have not addressed discrimination in the workplace and have not effectively contributed to increasing women's return to work following maternity leave.³⁹
26. Moreover, there are several legal and practical barriers to accessing justice that hinder a victim's ability to seek effective remedies. Only around 50% of employees are aware that there is legislation in place that prohibits discrimination.⁴⁰ Court procedures are expensive due to the costs of legal representation and in many cases, the amount of potential compensation payable is limited to a maximum of 12 months' salary, which often barely exceeds the lawyer's fee. Hungary has not put in place any effective dissuasive measures to deter employers from gender-based discrimination, nor has it introduced potential incentives to encourage them to keep pregnant workers in any form of employment.
27. Despite legislation prohibiting gender discrimination, Hungary has not taken any effective measures to tackle the longstanding issue of the gender pay gap in the workplace. The difference between the average monthly wage of men and women was 20% in 2019.⁴¹ The gender pay gap results in inequality which has life-long effects.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Hungary to:

National Human Rights Framework

- Ratify the Istanbul Convention to ensure more effective prevention, prosecution and protection from violence against women and domestic violence.
- Protect and facilitate the rights to freedom of association, peaceful assembly and expression including by repealing laws stigmatizing and discriminating against NGOs and foreign-owned universities.
- Amend the Fundamental Law by repealing the unnecessarily restrictive and discriminatory provisions introduced since 2016, including those which restrict the rights of LGBTI people.
- Provide equal rights for LGBTI people, including legalising same-sex marriage and adoption by same-sex couples and by individuals.

Gender discrimination against women

- Amend the Labour Code and all relevant laws regulating employment to encourage part-time employment and flexible working hours and protecting women workers from unfair dismissal.
- Provide access to legal remedies for employment discrimination by amending the rules for exemption from court fees and propose legislation to increase the level of reparations.
- Promote women's rights and gender equality in the workplace and take effective measures to tackle the gender pay gap; oblige both public and private sector employers to adopt action plans aiming to eliminate the gender pay-gap.

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- ¹ Recommendations 128.36 (Switzerland), Report of the Working Group on the Universal Periodic Review – Hungary, UN Doc A/HRC/33/9
- ² Recommendations 128.38 (Australia) Report of the Working Group on the Universal Periodic Review – Hungary, UN Doc A/HRC/33/9
- ³ Recommendations 128.118 (Australia) Report of the Working Group on the Universal Periodic Review – Hungary, UN Doc A/HRC/33/9
- ⁴ Recommendations 128.132 (Georgia) and 128.60 (Islamic Republic of Iran) Report of the Working Group on the Universal Periodic Review – Hungary, UN Doc A/HRC/33/9
- ⁵ Recommendations 128.66 (Slovenia) Report of the Working Group on the Universal Periodic Review – Hungary, UN Doc A/HRC/33/9
- ⁶ Report of the Working Group on the Universal Periodic Review: Hungary, Addendum, Views and conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, UN Doc. A/HRC/33/9/Add.1, 16 September 2016, page 2. Hungary expressed its intention to ratify the Convention after thorough examination and did not support the part of the recommendation to ratify without delay.
- ⁷ Amnesty International, *Annual Report on Hungary 2019*, <https://www.amnesty.org/en/countries/europe-and-central-asia/hungary/report-hungary/>
- ⁸ <https://www.parlament.hu/irom41/10393/10393.pdf>
- ⁹ Information available to Amnesty International that will be published in a forthcoming report
- ¹⁰ Amnesty International, *Hungary: Government must not use extraordinary power to roll back human rights amid COVID-19 emergency*, 31 March 2020, (EUR 27/2046/2020), <https://www.amnesty.org/en/documents/eur27/2046/2020/en/>
- ¹¹ Magyarország Alaptörvénye/Fundamental Law. The Orange Files. *Amendments to the Fundamental Law*, 25 April 2011, <https://theorangefiles.hu/amendments-to-the-fundamental-law/>
- ¹² The Orange Files. *Amendments to the Fundamental Law*, 25 April 2011, <https://theorangefiles.hu/amendments-to-the-fundamental-law/>
- ¹³ Bill No. T/332: “Seventh amendment of the fundamental law of Hungary”, English translation available at <https://www.helsinki.hu/wp-content/uploads/T332-Constitution-Amendment-29-May-2018-ENG.pdf>
- ¹⁴ <https://www.amnesty.org/en/documents/eur27/3353/2020/en/>
- ¹⁵ Amnesty International, *Hungary: Decision to strip trans people of the right to legal gender recognition is “step back into the dark ages”*, 19 May 2020, <https://www.amnesty.org/en/latest/news/2020/05/hungary/>
- ¹⁶ Amnesty International, *Hungary: Government must revoke prohibition of gender legal recognition*, 3 April 2020, <https://www.amnesty.org/en/documents/eur27/2085/2020/en/>
- ¹⁷ Hättér Society, *Hungarian Constitutional Court: Retroactive prohibition of legal gender recognition unconstitutional*, 12 March, 2021, <https://en.hatter.hu/news/annuled-provision>
- ¹⁸ Amnesty International. *Laws designed to silence: the global crackdown on civil society organisations*. February 2019, <https://www.amnesty.org/en/documents/act30/9647/2019/en/>
- ¹⁹ Amnesty International, *Laws designed to silence: the global crackdown on civil society organisations*. February, 2019, <https://www.amnesty.org/en/documents/act30/9647/2019/en/>, page 26
- ²⁰ Amnesty International, *Laws designed to silence: the global crackdown on civil society organisations*. February, 2019, <https://www.amnesty.org/en/documents/act30/9647/2019/en/>, page 27
- ²¹ *Hungary - Joint Opinion on the Provisions of the so-called “Stop Soros” draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration)*, adopted by the Venice Commission at its 115th Plenary Session (Venice, 22-23 June 2018), Doc. No. CDL-AD(2018)013-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)013-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)013-e), *Hungary - Opinion on the Draft Law on the Transparency of Organisations Receiving Support From Abroad, adopted by the Venice Commission at its 111th Plenary Session (Venice, 16-17 June 2017)*, Doc. No. CDL-AD(2017)015, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e), Magyar Helsinki Bizottság, *Velencei Bizottság: a „bevándorlási különadót” meg kell szüntetni!*, 15 December 2018, <https://www.helsinki.hu/velencei-bizottsag-a-bevandorlasi-kulonadot-meg-kell-szuntetni/>
- ²² The PIE News, *E Commission rules Lex CEU breaches int'l law*, 14 October 2020, <https://thepienews.com/news/european-commission-lex-ceu-hungary/>
- ²³ Amnesty International, *Annual Report on Hungary 2019*, <https://www.amnesty.org/en/countries/europe-and-central-asia/hungary/report-hungary/>

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- ²⁴ Amnesty International, *The reality for trans people in Hungary*, 1 June 2020, <https://www.amnesty.org/en/latest/campaigns/2020/06/the-reality-for-trans-people-in-hungary/>
- ²⁵ Amnesty Hungary, *Civil szervezetek együtt állnak ki a gyermekek jogáért, hogy családban nőhessenek fel*, 20 November 2020, <https://www.amnesty.hu/civil-szervezetek-egyutt-allnak-ki-a-gyermekek-jogaert-hogy-csaladban-nohessenek-fel/>, <https://unicef.hu/ezt-tesszuk-itthon/gyermekjogi-koalicio/a-gyermekjogi-civil-koalicio-allasfoglalasa-az-orokbefogadas-uj-szabalyairol>
- ²⁶ The Court of Justice of the European Union, *Press Release No 125/20, The conditions introduced by Hungary to enable foreign higher education institutions to carry out their activities in its territory are incompatible with EU law*, 6 October 2020, <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-10/cp200125en.pdf>
- ²⁷ BBC, *Hungary broke EU law by forcing out university, says European Court*, 6 October 2020, <https://www.bbc.co.uk/news/world-europe-54433398>, Hungary Today, *ECJ on 'Lex CEU': Hungarian Law on Higher Education Breaches EU Law*, 6 October 2020, <https://hungarytoday.hu/ecj-lex-ceu-hungarian-law-higher-education-breaches/>
- ²⁸ Court of Justice of the European Union Press Release No 73/20, *The restrictions imposed by Hungary on the financing of civil organisations by persons established outside that Member State do not comply with EU law*, 18 June 2020, <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-06/cp200073en.pdf>
- ²⁹ Information available to Amnesty International that will be published in a forthcoming report
- ³⁰ One of the suspended programmes was the Housing Programme for Refugees (www.bmszki.hu), the other one was the Migration Information Desk in Budapest. (<https://budapest.hu/Lapok/2017/migracios-ugyfelpont-migration-information-desk.aspx>)
- ³¹ Information available to Amnesty International that will be published in a forthcoming report
- ³² Information available to Amnesty International that will be published in a forthcoming report
- ³³ Information available to Amnesty International that will be published in a forthcoming report
- ³⁴ Information available to Amnesty International that will be published in a forthcoming report
- ³⁵ Human Rights Watch, *Hungary's Family Minister Undermines Equality for Women*, 17 December 2020, <https://www.hrw.org/news/2020/12/17/hungarys-family-minister-undermines-equality-women>
- ³⁶ Friedrich-Ebert-Stiftung Budapest, *Az egyenlőtlenségek alakulása koronajárvány idején Magyarországon*, June, 2020, https://www.fes-budapest.org/fileadmin/user_upload/dokumente/pdf-dateien/13_COVID_egyenlo_tlense_g_HUN_20200629.pdf
- ³⁷ Amnesty International, *No working around it – Gender-based discrimination in Hungarian workplaces*, 2020, <https://www.amnesty.org/download/Documents/EUR2723782020ENGLISH.PDF>
- ³⁸ The government increased the number of nursery places across the country, amended the Labour Code allowing women to work part-time covering 20 hours per week until their child reaches four years of age (or six if the woman raises three or more children) and introduced tax breaks for families depending on the number of children.
- ³⁹ Equal Treatment Authority and Centre for Social Sciences, Institute for Sociology, Hungarian Academy of Sciences, *Personal and social perception of discrimination and legal awareness of the right to equal treatment, Survey findings*, 2019, pp. 11-12., https://www.egyenlobanasmod.hu/sites/default/files/kiadvany/EBH_2019_FINAL_EN_20191208%20Final_isbn_online.pdf. The Equal Treatment Authority and the Hungarian Academic Sciences conducted the survey four times (in 2010, 2013, 2017 and 2019) on a national representative sample with the aim of mapping the various dimensions of discrimination and assessed (1) personally experienced discrimination, (2) social perception of discrimination and (3) awareness of and attitudes towards the legal framework of equal treatment and the Authority
- ⁴⁰ Equal Treatment Authority and Centre for Social Sciences, Institute for Sociology, Hungarian Academy of Sciences, *Personal and social perception of discrimination and legal awareness of the right to equal treatment, Survey findings*, 2019, pp. 11-12., https://www.egyenlobanasmod.hu/sites/default/files/kiadvany/EBH_2019_FINAL_EN_20191208%20Final_isbn_online.pdf
- ⁴¹ Hungarian Central Statistical Office, *Munkaerő-piaci esélyegyenlőség (2004–2019)*, https://www.ksh.hu/thm/2/indi2_3_3.html