

# *Council of Europe contribution for the 39<sup>th</sup> UPR session (Apr-May 2021) regarding Hungary*

## **Contents**

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights.....</i>	<i>2</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>4</i>
<i>Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI).....</i>	<i>4</i>
<i>Protection of minorities.....</i>	<i>5</i>
<i>Framework Convention for the Protection of National Minorities.....</i>	<i>5</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>6</i>
<i>Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM).....</i>	<i>6</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>7</i>
<i>Preventing and combating violence against women and domestic violence (GREVIO).....</i>	<i>7</i>
<i>Protection of children against sexual abuse (Lanzarote Convention).....</i>	<i>8</i>
<i>Fight against corruption (GRECO).....</i>	<i>11</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>11</i>
<i>Statistical data.....</i>	<i>11</i>
<i>Main cases / groups of cases under the Committee of Ministers' supervision.....</i>	<i>12</i>
<i>Important cases closed in 2020 and 2019.....</i>	<i>13</i>
<i>Social and Economic Rights (ECSR).....</i>	<i>14</i>
<i>Venice Commission.....</i>	<i>14</i>
<i>Justice System.....</i>	<i>15</i>
<i>Civil Society – Freedom of association.....</i>	<i>15</i>
<i>Right to education and the freedom of education.....</i>	<i>16</i>
<i>Media Freedom.....</i>	<i>17</i>

## Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

The CPT's 2017 report focusing on immigration issues:



**CPT\_Inf\_2018\_42\_Hun  
gary.pdf**

The corresponding Government response:



**CPT\_Inf\_2018\_43\_Hun  
gary.pdf**

The CPT's report on the 2018 periodic visit:



**CPT\_Inf\_2020\_8\_Hung  
ary.pdf**

The corresponding Government response:



**CPT\_Inf\_2020\_9\_Hung  
ary.pdf**

## Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

In a [statement](#) on 20 November 2020, the Commissioner urged the Hungarian Parliament to postpone the vote on a complex legislative package that had been submitted without prior consultation and had the potential to undermine democracy, the rule of law and human rights in Hungary. The Commissioner expressed her concerns with respect to the proposal to merge the Equal Treatment Authority with the Commissioner for Fundamental Rights, as the latter institution had seen its Status A re-accreditation deferred due to doubts regarding the appointment process of the incumbent and the institution's engagement to protect all human rights. She also considered that the proposal to further enhance the powers of the President of the Kúria, Hungary's Supreme Court, raised concerns vis-à-vis the organs of collective judicial self-governance in Hungary. Lastly, she expressed her alarm at the renewed stigmatisation of LGBTI people and the manipulation of their dignity and rights for political gain, given pejorative constitutional amendments and a proposal to further limit the possibility for single sex couples to adopt children. The legislative proposals were

adopted in December 2020.

On 28 November 2019, the Commissioner issued a [statement](#) urging the Hungarian Parliament to modify a bill that could negatively affect the independence of the judiciary by diminishing the independence of individual judges in their core duties and creating excessive hierarchies within the judicial system. She further warned that the bill, which was submitted without a general consultation, could negatively impact on fair trial guarantees for individuals and reissued her earlier recommendations to strengthen collective judicial self-governance in Hungary, including the position and functions of the National Judicial Council.

In her [report](#) of 21 May 2019, following a visit to the country in February 2019, the Commissioner underlined that human rights violations in Hungary had a negative effect on the whole protection system and the rule of law and had to be addressed as a matter of urgency. With respect to the rights of asylum seekers and refugees, she called on the authorities to refrain from anti-migrant rhetoric and xenophobic campaigns which had resulted in a legislative framework that undermined the reception of asylum seekers and the integration of recognised refugees. The Commissioner further urged the government to ensure access to the international protection procedure for all asylum seekers and end the systematic detention of asylum seekers, including children.

The Commissioner also expressed her deep concern regarding legislative measures taken in 2018 that had restricted the space for civil society organisations and criminalised NGO activities that were fully legitimate in a democratic society. Continued intimidation and stigmatisation of human rights defenders had a chilling effect. The Commissioner noted that a series of reforms of the judiciary in Hungary had adversely affected its independence. She stressed the need for more checks and balances in relation to the broad powers of the President of the National Judicial Office and underlined that the extensive powers of the Minister of Justice should be counterbalanced by strengthening judicial self-governance. Finally, the Commissioner commented on the continued backsliding in Hungary in terms of gender equality, noting that the government's focus on protecting women as child bearers risked reinforcing gender stereotypes and instrumentalising women, urging the authorities to ratify the Istanbul Convention on preventing and combating violence against women.

In a [statement](#) on 14 December 2018, the Commissioner called on Hungary's President to return to Parliament a legislative package regarding a planned administrative court reform which, conferring strong powers to the Minister of Justice, could negatively impact on the independence of the judiciary. The Commissioner expressed her concern about the fact that public consultation on the package had only been minimal and that the Hungarian Government and Parliament had not waited for the Venice Commission to issue an Opinion, which had been requested.

On 1 June 2018, the Commissioner issued a [statement](#) expressing her concern at a legislative draft submitted by the Hungarian government that criminalised the "facilitation of illegal immigration", constituting a worrying human rights development. She warned that the new provisions would result in further arbitrary restrictions to the indispensable work of human rights NGOs and defenders and leave migrants and refugees without essential services. She called on the Hungarian authorities to drop this draft bill, discontinue their stigmatising rhetoric and restore an enabling environment for human rights defenders who carried out professional and important work in Hungary. The Commissioner also urged the Hungarian authorities to fully abide by their international

human rights obligations and show a more humane approach to the needs of asylum seekers and all migrants.

### ***Fight against racism and intolerance (ECRI)***

*The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.*

Conclusions on Hungary (adopted on 21 March 2018 / published on 15 May 2018)



**CR1\_2018\_24\_Hungary  
.pdf**

### ***Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI)***

*Under the authority of the Committee of Ministers and bearing in mind the Council of Europe’s legal standards, the jurisprudence of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms, the CDADI steers the Council of Europe’s intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected. The work of the CDADI shall take into account the work of the European Commission against Racism and Intolerance (ECRI), without prejudice to the latter’s mandate.*

*The CDADI advises the Committee of Ministers on all questions within its mandate, including preventing and combating hate speech and discrimination on the grounds covered by ECRI, with a particular focus on fighting anti-Gypsyism and improving the active participation and inclusion of Roma and Travellers in society, safeguarding the rights of persons belonging to national minorities and the use of regional or minority languages, and promoting intercultural integration.*

*The CDADI promotes and facilitates thematic exchanges and peer reviews of experience and good practice among Council of Europe member States to develop common policy responses, analyse implementation and fulfil any other task assigned to it by the Committee of Ministers.*

Based on the study [“COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states”](#) adopted in 2020, Committee formed a working group with a task to compile promising and good practices and draft Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the COVID-19 and similar crises, which is expected to be adopted by the Committee of Ministers during 2021.



COVID-19 an  
analysis of the anti-di

## Protection of minorities

### Framework Convention for the Protection of National Minorities

*The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.*

The Advisory Committee on the Framework Convention adopted the 4<sup>th</sup> Opinion in respect of Hungary on 25 February 2016.



ACFC\_OP\_IV\_2016\_00  
3\_Hungary.pdf

Resolution CM/ResCMN(2017)5 on the implementation of the Framework Convention for the Protection on National Minorities by Hungary was adopted by the Committee of Ministers on 5 July 2017 at the 1291<sup>st</sup> meeting of the Ministers' Deputies.



CM\_Res\_CMN\_2017\_5  
\_Hungary.pdf

The Advisory Committee on the Framework Convention adopted the 5<sup>th</sup> Opinion in respect of Hungary on 26 May 2020.



ACFC\_5th\_opinion\_Hu  
ngary.pdf

[Resolution CM/ResCMN\(2021\)8](#) on the implementation of the Framework Convention for the Protection on National Minorities by Hungary was adopted by the Committee of Ministers on 3 February 2021 at the 1394<sup>th</sup> meeting of the Ministers' Deputies.



CMResCMN\_2021\_Hu  
ngary.docx

## European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. Since the entry into force, in July 2019, of the reform of the monitoring mechanism, the subsequent reports are presented at five-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

The European Charter for Regional or Minority Languages entered into force in Hungary in 1998.

The authorities submitted their 6<sup>th</sup> periodical report in March 2015. The Committee of Experts adopted its evaluation report on Hungary in March 2016 and the corresponding Committee of Ministers' recommendations were adopted in December 2016.



In April 2018 the authorities presented their 7<sup>th</sup> periodical report. The Committee of Experts adopted its evaluation report in November 2018 and the corresponding Committee of Ministers' recommendations were adopted in June 2019.



On 8 October 2020 the Committee of Experts adopted its evaluation of the implementation of the recommendations for immediate action contained in the seventh evaluation report on Hungary.



## Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)

Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma

and Traveller) organisations are associated as observers to the CAHROM.

### Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA evaluation report (2<sup>nd</sup> evaluation round):



GRETA\_2019\_13\_Hun  
gary.pdf

[Press release](#)

### Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), CETS No. 210) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality

*between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.*

*The Council of Europe Istanbul Convention provides for two types of monitoring procedures:*

- 1. a country-by-country evaluation procedure;*
- 2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.*

*GREVIO, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.*

*The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.*

n/a

### **Protection of children against sexual abuse (Lanzarote Convention)**

*The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “[the Lanzarote Convention](#)”, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.*

*The “Lanzarote Committee” (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme. At the end of each round, the Lanzarote Committee adopts “implementation reports” which contain its assessment of the situation with respect to the monitored Parties.*

Hungary ratified the Lanzarote Convention on 3 August 2015 and it entered into force in its respect on 1 December 2015.

Since Hungary became a Party to the Convention after the launching of the 1<sup>st</sup> monitoring round, the Lanzarote Committee did not assess the situation in its respect on the “Protection of children against sexual abuse in the circle of trust”. Hungary was however assessed under the urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”.

The recommendations requiring Hungary to take steps to implement the Lanzarote Convention effectively in the context of this urgent monitoring round were as follows:

**Urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”**



On the provision of protection and assistance measures for children exposed to sexual exploitation and sexual abuse pending verification of their age, the Lanzarote Committee:

- **Urges** Hungary to take the necessary legislative or other measures to ensure that the principle of the benefit of the doubt is adequately applied and adequate protection and assistance measures are provided in line with the Lanzarote Convention to individuals pending verification of their age when there are reasons to believe that they are children (R1).

On victim identification, the Lanzarote Committee:

- **Considers** that Hungary should put in place effective mechanisms for data collection with a specific focus on children affected by the refugee crisis who are victims or presumed victims of sexual exploitation and sexual abuse and review the possible removal of obstacles to the collection of such data, in particular, where they exist, legal restrictions to do so, with due respect for the requirements of personal data protection (R7).

On the distinction made between victims prior to the entry on territory and after entry, the Lanzarote Committee:

- **Considers** that, while providing adequate protection to child victims irrespective of where the exploitation/abuse occurred, Hungary should do its utmost to be able to distinguish between sexual exploitation and sexual abuse occurring prior to the entry of the child victim on its territory and after the entry (R11).
- **Considers** that Hungary should fulfil obligations to prosecute the offenders and to provide international co-operation between the Parties in instances where the offence occurred prior to arrival on the territory for the purpose of investigation and prosecution (R12).

On the Parties' approach to protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Hungary should encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that preventive measures in regards to protection from sexual exploitation and sexual abuse are in place and protective measures are taken as speedily as possible (R13).

On preventing children affected by the refugee crisis from being sexual exploited and sexually abused, the Lanzarote Committee:

- **Considers** that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture (R15).
- **Considers** that Hungary and other Parties to the Convention should exchange information on awareness raising activities which specifically focus on the risks faced by children affected by the refugee crisis with respect to sexual exploitation and sexual abuse (R17).

On the protection of children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Hungary should ensure that the specific recommendations on the child-friendly handling of proceedings involving children victims of sexual abuse be implemented also in the context of proceedings involving children affected by the refugee crisis (R31).
- **Considers** that, if it has not yet done so, Hungary should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help them to provide advice in a language which is understandable to them (R32).

On co-operation in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Hungary and other Parties to the Convention should agree on common strategies/procedures to effectively deal with the phenomenon of cross-border missing children (R35).

On data collection and coordination in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Hungary and other Parties to the Convention should reinforce or put in place a coordinated approach between the different agencies in charge in order to facilitate the prevention and protection of children affected by the refugee crisis from sexual exploitation and sexual abuse (R37).

In addition, the Lanzarote Committee addressed a series of recommendations to Hungary further to a visit undertaken by a delegation of the Lanzarote Committee to transit zones at the Serbian/Hungarian border on 5-7 July 2017. The major issues yet to be addressed with regard to these recommendations are the following:

- in the framework of immigration procedures, all persons under the age of 18 years are still not treated as children and therefore discrimination on the ground of age remains a concern and protection of all children against sexual exploitation and abuse is not ensured (Recommendation R1);
- the Hungarian authorities have not ceased the practice of detaining children in the transit zones in fenced open air areas with containers for shelter (Recommendation R12);
- unaccompanied children aged 14-18, especially girls, are still not cared for within the Hungarian regular child protection system, i.e. in open child protection institutions to prevent possible sexual exploitation or sexual abuse against them in the transit zones (Recommendations R2 and R15). The Committee is concerned that the Károlyi István Children's Home at Fót is due to be closed and, despite the explanations given by the Hungarian authorities, the Lanzarote Committee is also concerned with the lack of precise information on the alternative accommodation (and conditions) where the unaccompanied children will be.

Other issues still to be addressed are highlighted in the [Report concerning the "Assessment by the Lanzarote Committee of the follow-up given by the Hungarian authorities to the recommendations addressed to them further to a visit undertaken by a delegation of the Lanzarote Committee to](#)

[transit zones at the Serbian/Hungarian border \(5-7 July 2017\)”.](#)



T\_ES\_2019\_11\_final\_H  
ungary.pdf

## ***Fight against corruption (GRECO)***

*The 'Group of States against Corruption' (GRECO) monitors all its 50 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a “compliance procedure”, assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report. GRECO has also an Ad hoc procedure for situations requiring urgent action.*

Hungary was evaluated under the Fourth Evaluation Round: “Corruption prevention in respect of members of parliament, judges and prosecutors”.

Here is the most recent compliance report, adopted on 25 September 2020, concluding that the level of compliance is “globally unsatisfactory”:



GrecoRC4(2020)10-Fi  
nal-eng-Hungary-2nd

The evaluation of Hungary under the on-going Fifth Evaluation Round ("Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies") is planned for October 2021.

## ***Execution of judgments and decisions of the European Court of Human Rights***

### ***Statistical data***

On 31 December 2020, there were 276 cases (266 cases on 31 December 2019) against Hungary pending before the Committee of Ministers for supervision of their execution. Among these cases, 54 cases were “leading cases” evidencing different problems (48 leading cases on 31 December 2019) and 13 cases or groups of cases (nine on 31 December 2019) were examined by the CM under the enhanced supervision procedure (see below).

In 2020, the CM was concerned with 9 new leading cases (2 new leading cases in 2019) and 52 new repetitive cases (89 new repetitive cases in 2019). The overall amount of just satisfaction awarded was € 1 655 127 (€ 5 391 826 awarded in 2019). In 2020, 51 cases against Hungary were closed by the adoption of a Final Resolution (77 cases closed in 2019).

## Main cases / groups of cases under the Committee of Ministers' supervision

- 1) Ill-treatment by law enforcement agents and lack of effective investigations ([Gubacsi](#) group of cases);



**GUBACSI v.  
Hungary.pdf**

- 2) Overcrowding and poor material conditions of detention, lack of effective remedies and other deficiencies in the protection of prisoners' rights ([István Gábor Kovács/Varga](#) groups of cases);



**ISTVAN GABOR  
KOVACS v. Hungary.p**

- 3) Failure to discharge procedural obligations under Article 3 to assess the risks of ill-treatment before expelling asylum-seeking applicants to a “safe third country” ([Ilias and Ahmed](#));



**ILIAS AND AHMED v.  
Hungary.pdf**

- 4) Life sentence without eligibility for release on parole in combination with the lack of an adequate review mechanism of this sentence ([László Magyar](#) group of cases);



**LASZLO MAGYAR v.  
Hungary.pdf**

- 5) Excessive length of judicial proceedings and lack of an effective remedy in this respect ([Gazsó](#) group of cases);



**GAZSO v.  
Hungary.pdf**

- 6) Lack of access to court as regards the premature termination of the applicant's mandate as President of the Supreme Court through *ad hominem* legislative measures adopted in the context of a major reform of the judiciary, which also led to a violation of his right to freedom of expression ([Baka](#));



**BAKA v. Hungary.pdf**

- 7) Absence of sufficient guarantees against abuse in secret surveillance legislation ([Szabó and Vissy](#));



**SZABO AND VISSY v.  
Hungary.pdf**

- 8) Legislative gap regarding gender reassignment and name-changing procedure of lawfully settled third country nationals ([Rana](#));



**RANA v. Hungary.pdf**

- 9) Failure to effectively address the issues arising from the applicants' children's wrongful removals by the applicants' former spouses/partners (international child abductions) ([Shaw](#) group);



**SHAW v. Hungary.pdf**

- 10) Discriminatory assignment of children of Roma origin to schools for children with mental disabilities during their primary education ([Horváth and Kiss](#)).



**HORVATH AND KISS  
v. Hungary.pdf**

For a more complete overview of the situation see the [Country Factsheet](#) and the [Committee of Ministers' Annual Reports](#) on its supervision activity (available on the [website of the Department for the Execution of Judgments of the European Court of Human Rights](#)). More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#).



**EIECH\_Country\_Factsheet\_Hungary.pdf**



**Supervision\_of\_the\_judgments\_and\_decisions.pdf**

### **Important cases closed in 2020 and 2019**

In 2020, the Committee of Ministers decided, inter alia, to end the supervision of the execution of cases concerning:

- the constitutional, automatic restriction on the applicants' right to vote, as a result of their status as persons placed under partial or full guardianship ([Alajos Kiss](#) group, see [Final Resolution](#));



**ALAJOS KISS v.  
Hungary.pdf**



**CASE OF ALAJOS  
KISS AGAINST HUNGARY**

- refusals of prison leave preventing the applicants from attending the funeral of, or paying last visit to close relatives ([Császy](#) group, see [Final Resolution](#)).



**CSASZY v.  
Hungary.pdf**



**CASE OF CS\_SZY  
AGAINST HUNGARY**

In 2019, the Committee of Ministers inter alia ended its supervision of the execution of cases concerning:

- disproportionate interferences with the applicants' freedom of expression due to their criminal convictions or their being subject to police measures on the basis of a prohibition of the use of totalitarian symbols in the Criminal Code for having worn a red-star symbol in peaceful and lawfully organised demonstrations as members of a registered left-wing political party ([Vajnai](#) group, see [Final Resolution](#));



- disproportionate interference with the applicants right to peaceful enjoyment of their property due to the imposition of high taxation (98%) on the upper bracket of the severance pay the applicants were entitled to after termination of their employment in the wider public sector ([N.K.M.](#) group, see [Final Resolution](#)).



## Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.



The Conclusions 2020 will be made public on 24 March 2021 on the [ESC website](#).

## Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Concerning Hungary, the Commission from 2015 to 2020 adopted six opinions as follows:

## Justice System

**CDL-AD(2019)004** English 19/03/2019 - Public

[Hungary - Opinion on the law on administrative courts and the law on the entry into force of the law on administrative courts and certain transitional rules, adopted by the Venice Commission at its 118th Plenary Session \(Venice, 15-16 March 2019\)](#)



**CDL-AD\_2019\_004\_Hu**  
**gary\_opinion on the l**

Measures taken by the State:

The law was first amended following the adoption of the opinion, taking into account a considerable number of recommendations of the Venice Commission. Subsequently, at the end of May 2019, the Hungarian authorities announced that the establishment of the administrative court system would be suspended for an indefinite period.

<https://www.venice.coe.int/WebForms/followup/?index=3> MIDDLE OF THE PAGE

## Civil Society – Freedom of association

**CDL-AD(2018)013** English 25/06/2018 - Public

[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 \(Venice, 22-23 June 2018\)](#)



**CDL-AD\_2018\_013\_Hu**  
**ngary\_Joint Opinion a**

Measures taken by the State:

The "Stop Soros" draft legislative package, including Article 353 A of the Criminal Code on facilitating illegal migration, was adopted by the Parliament on 20 June 2018 without awaiting the adoption of the Opinion by the Venice Commission on June 22nd. The Hungarian Constitutional Court examined on 28 February 2019 Article 353A of the Criminal Code. In its judgment, the Constitutional Court found that the challenged provision was compatible with the Constitution, as it was a necessary response to the challenges to the border protection presented by the influx of migrants. However, the judgment mitigates the effects of the provision by giving a restrictive interpretation of it. According to the Constitutional Court: - The crime of facilitating illegal migration can only be committed intentionally and should be directly related to the materialization of illegal migration. - Criminal responsibility can only be engaged for supporting asylum applications if the perpetrator was aware of the fact that she/he was providing assistance to a person who does not meet the definition of a refugee and thus not eligible for protection. - The participation in public debate on and dissemination of information about immigration is not prohibited. - It was equally pointed out that civil society organizations have the right to pursue activities in order to defend human rights which also extends to providing assistance to asylum-seekers. - The Constitutional Court also stated that the criminalization of charitable activities in support of vulnerable people would be contrary to the Fundamental Law.

<https://www.venice.coe.int/WebForms/followup/?index=2> TOP OF THE PAGE

**CDL-AD(2018)035** English 17/12/2018 - Public

[Hungary - Joint Opinion on Section 253 on the special immigration tax of Act XLI of 20 July 2018 amending certain](#)

[\*tax laws and other related laws and on the immigration tax, adopted by the Venice Commission at its 117th Plenary Session \(Venice, 14 and 15 December 2018\)\*](#)



**CDL\_AD\_2018\_0358H**  
**ungary\_joint opinion**

Measures taken by the State:

The provisions as examined remain in force with no relevant changes.

<https://www.venice.coe.int/WebForms/followup/?index=3> **TOP OF THE PAGE**

**CDL-AD(2017)015** English 19/06/2017 - Public

[\*Hungary - Opinion on the Draft Law on the Transparency of Organisations receiving support from abroad\*](#)



**CDL\_AD\_2017\_015\_Hu**  
**ngary\_Opinion on the**

Measures taken by the State:

On 13 June 2017, the Hungarian Parliament adopted the Law with certain amendments, notably: - An additional exception has been added for “national minority organisations and associations under Act CLXXIX of 2011 on the rights of national minorities and to foundations performing, under their instrument of incorporation, the protection and representation of the interest of a certain national minority, or activities directly connected to the cultural autonomy of a national minority”; - The obligation to disclose the identity of individual donors has been limited to donations of more than 500 000 forints (around 1 600 euros); - The reference to the dissolution as an automatic sanction has been removed and a reference to the proportionality of the sanctions has been added; -Deregistration is now possible if no important foreign funding has been received during 1 year. These measures were commented upon in an opinion adopted during 111th Plenary Session of the Venice Commission (16-17 June 2017). In this Opinion, the Commission recognised that some of these amendments represent an important improvement, but considered that some other concerns were not addressed and the amendments do not suffice to alleviate the Venice Commission’s concerns that the Law will cause a disproportionate and unnecessary interference with the freedoms of association and expression, the right to privacy, and the prohibition of discrimination. The Law as examined in the Opinion adopted at the 111th Plenary Session stays in force with no relevant changes.

<https://www.venice.coe.int/WebForms/followup/?index=1> **TOP OF THE PAGE**

## ***Right to education and the freedom of education***

**CDL-AD(2017)022** English 09/10/2017 - Public

[\*Hungary - Opinion on Article XXV of 4 April 2017 on the Amendment of Act CCIV of 2011 on National Tertiary Education, endorsed by the Venice Commission at its 112th Plenary Session \(Venice, 6-7 October 2017\)\*](#)



**CDL\_2017\_022\_Hunga**  
**ry\_opinion on Article**

Measures taken by the State:



In October 2017 the Hungarian Parliament extended the deadline for foreign universities to meet the new requirements to 1 January 2019, but the essence of the new law remained. The European Commission challenged the 2017 amendments before the Court of Justice of the European Union (ECJ). On 6 October 2020 the ECJ ruled that the legislation was in breach of the General Agreement on Trade in Services (GATS) of the WTO, and that it was incompatible with the provisions of the EU Charter of Fundamental Rights on academic freedom, the freedom to found higher education institutions, and the freedom to conduct a business, and also contrary to the EU legislation on free movement of services and the freedom of establishment. The Court noted that the requirement to have an international agreement as a pre-condition for operations of foreign universities in Hungary depends fully of the discretion of the Hungarian authorities. Second, the ECJ found that Hungary did not demonstrate how this requirement would serve a vital public interest. In the same vein, in the opinion of the ECJ, the obligation to provide educational services in two states, Hungary and in the host State, had no clear rationale. The ECJ concluded that the contested legislation jeopardized normal functioning of the foreign universities and put at risk the academic freedoms. Although the VC opinion has not been cited by the ECJ, the Court confirmed in essence the position of the Venice Commission expressed in the opinion.

<https://www.venice.coe.int/WebForms/followup/?index=1> **TOP OF THE PAGE**

## Media Freedom

**CDL-AD(2015)015** English 22/06/2015 - Public

[Opinion on Media Legislation \(ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media\) of Hungary, adopted by the Venice Commission at its 103rd Plenary Session \(Venice, 19-20 June 2015\)](#)



**CDL-AD\_2015\_015\_Hu  
ngary\_Opinion on Me**

No follow up information on measures taken by the State available