**Contribution of Hungary at the request of Siobhán Mullay, Special Rapporteur on trafficking in persons, especially women and children**

* *Examples of deprivation of citizenship as punishment against trafficked persons;*

Under Hungarian criminal law, no one may be deprived of his or her citizenship as a punishment.

* *The limits or challenges on the application of the non-punishment principle or discrimination in practice in implementation*;

The Hungarian Government has stepped up its efforts to ensure the non-punishment of victims of human trafficking in recent years. The related activities include legislative changes and attitude shaping as well.

In our experience, the cases when victims may face criminal charges are diverse, but can ultimately be divided into two main parts: (i) victims are forced to commit different types of crimes, such as shoplifting or pickpocketing; and (ii) victims are caught in breach of the prohibition of offering sexual services.

Instead of a non-punishment provision specifically applying to victims of trafficking, the Criminal Code applies a general list of criteria, indicated under the heading “*reasons for excluding or limiting liability to punishment*”.

The grounds that exclude or limit criminal liability are as follows:
a) infancy,
b) mental disorder,
c) coercion or threat,
d) error,
e) justifiable defence,
f) necessity,
g) permission by law,
h) any other reason specified in an Act.

Obviously, coercion or threat is best applied to trafficking cases. Article 19 (1) of the Criminal Code stipulates that a person shall not be liable to punishment if he/she commits a punishable act under coercion or threat which prevents him from acting in line with his/her own will. Further, under Paragraph (2), the punishment may be reduced without limitation if the coercion or threat limits the ability of the perpetrator of a criminal offence to act in line with his own will.

* *Information on laws and policies on the implementation of the non-punishment principle*

An explicit non-punishment provision applies to minors providing sexual services. Hungary’s National Strategy against Trafficking in Human Beings (2020–2023) and the action plan on measures to be implemented in 2020–2021wasendorsed in February 2020 by Government Decision No. 1046/2020 (II. 18.). with the aim of, among other priorities, protecting children from sexual exploitation. *Act V of 2020 on the amendment of certain laws to prevent the exploitation of victims of human trafficking* was adopted by the Parliament on 10 March in this spirit. In the framework of the amendment, *Act on Organized Crime* stipulates that persons under the age of 18 may not offer sexual services. A new section was added to the *Act on Minor* *Offences* as well: the violation of prohibition of offering sexual services is not punishable if the offender has not attained the age of 18 at the time of the commission of the act – in practice, it means that prostitutes below the age of majority are treated as presumed victims of human trafficking by the law, and not perpetrators, so offence procedure against cannot be commenced against them. (Note: this is applicable to minors aged between 14 and 18, considering that children below 14 years of age are exempted from liability by the general principles as referred to above.)

Now these minors receive adequate victim support services. The referral mechanism is laid down in the *Child Protection Act*: the police applies a so-called general protection measure and take the minor to the designated special childcare institution. The National Police Headquarters modified their internal instruction on the implementation of police tasks connected to prostitution-related offenses and trafficking in human beings accordingly. In such cases, the guardianship authority is notified without delay, though the placement is an immediately enforceable decision, and not subject to prior decision of the guardianship authority.

All these amendments came into force on 1 July 2020. The regulations are in line with *Directive 2011/36/EU of the European Parliament and of the Council* declaring that “[v]ictims of trafficking in human beings should, in accordance with the basic principles of the legal systems of the relevant Member States, be protected from prosecution or punishment for criminal activities.”

We have so far presented the legal environment, but it’s important to put emphasis on the right application as well, and here come to the picture the training activities and attitude-shaping. The Ministry of Interior regularly organizes sensitivity trainings for investigators, judges and prosecutors from three counties of Hungary each time. During these events, the actors of the criminal procedure are seated around the same table and rehearse practical cooperation through case studies. In addition to this, there are numerous other training initiatives for different professionals which, above the general knowledge and sensitization on the issue of human trafficking, convey the message that the victims’ consent in trafficking cases is only a false appearance and thus irrelevant, and exploited persons must not be punished for unlawful acts.