

# **Annex 1**

## **RECOMMENDATIONS**

### **HUNGARY - Submission to the UN Universal Periodic Review**

11<sup>th</sup> session of the UPR Working Group of the Human Rights Council  
November 2010

#### **Submitting organisations encourage the Human Rights Council to recommend in its concluding observations that Hungary:**

##### **Employment**

- Introduces the rules of reasonable accommodation into the legal environment by the amendment of the Act on Equal Treatment and the Promotion of Equal Opportunities;
- Changes the regulation of legal capacity, which is closely linked to the guardianship system, in general as well as in connection with employment.

##### **Education**

- Ensures the enactment in national legislation of an enforceable statutory duty to desegregate education requiring public authorities to take action to eliminate segregated education within a fixed period of time;
- Introduce an immediate moratorium on admissions of Romani children to special schools;
- Promotes the breaking down of prejudices against the social equality of genders in the educational system;
- Drafts a strategy for the introduction of an inclusive education and provide financial assistance for it;
- Provides appropriate training for teachers.

##### **Health care: disability and forced sterilization**

- Reviews legislation on the concept of sterilization for medical indications and remove the paragraph on sterilization for medical indication from the Hungarian Public Health Act;
- Amends the Hungarian Public Health Act by saying that “patient has to be informed about the permanent nature of the operation” rather than “chances of reinstalling fertility”;
- Regularly monitors public and private health centres which perform sterilisation procedures to ensure that patient has given fully informed consent before any sterilization procedure is carried out, with appropriate sanctions in place in the event of a breach;
- Creates the legal framework for homebirth in accordance with respective international norms;
- Provides disability training for health care professionals, with special regard to women with disabilities;
- Implements existing legislative measures regarding the procurement of necessary instruments and the access to health care services to persons with intellectual disabilities:

provide services on an equal basis and with respect to primary (paediatric) care, dental care, as well as specialist medical services.

### **Torture or ill-treatment of detainees**

- Eliminates ‘actual life imprisonment’ (i.e. life long sentence without the possibility of parole), thus, make conditional release available to all sentenced prisoners;
- Signs and ratifies the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and designate the National Preventive Mechanism;
- Ensures that persons deprived of their liberty who claim to have been ill-treated by officials have access to independent medical examination;
- Ensures effective remedy provided to victims of ill-treatment by officials.

### **Unlawful detention**

- Stops the practice of arbitrarily detaining asylum seekers in immigration detention beyond the period prescribed by the law;
- If detention of migrants is deemed necessary, provides adequate detention conditions with sufficient space, recreational activities, outdoor stay and psychosocial assistance for people in need;
- Takes effective steps that police personnel guarding immigration jails undergo systematic intercultural, basic human rights and conflict resolution trainings.

### **Right to asylum**

- Takes effective steps that police provide adequate mechanisms to identify potential asylum seekers in border procedures to better respect the principle of *non-refoulement*;

### **Human trafficking**

- Amends criminal legislation according to the standards set forth in the Palermo Protocol, with adequate attention paid to internal trafficking and its victims; include sexual exploitation as a purpose;
- Develops institutional system that is adequately prepared to provide unconditional immediate and effective help to victims of trafficking and provide sustainable shelter;
- Collects and analyses data on victims of trafficking, including data disaggregated by gender, age, ethnicity and place of origin (also in cases of internal trafficking);
- Provides targeted prevention programmes in child care institutions and in socially and economically disadvantaged areas and develops prevention programs targeted to specifically Roma women and youth as well as children exposed to domestic violence;
- Provides trainings to law enforcement authorities, childcare, educational workers, social workers and NGOs in order to ensure effective identification of the victims.

### **Violence against women**

- Provides a clear definition of domestic violence in a legally binding document based on international definitions;
- Introduces domestic violence as a *sui generis* crime in the Penal Code of Hungary;

- Reforms the Penal Code to define sexual crimes as crimes violating women's rights to bodily integrity and that the law defines rape as sexual intercourse without consent;
- Amends the regulations on the restraining orders, and any other law failing or hindering to provide effective protection against domestic violence in a separate piece of legislation on domestic violence;
- Makes gender-disaggregated statistical data collection an obligation;
- Introduces training courses for public officials with the involvement of NGOs having worked in the field of combating violence against women;
- Trains law enforcement officials and other relevant state actors to adequately and sensitively act in cases of violence against women;
- Provides financial support for existing services (telephone line and personal legal and psychological counseling) provided by NGOs;
- Recognises multiple discrimination in current and future policies and take concrete and effective steps to prevent and counter the effects of multiple discrimination faced by Roma women;
- Provides law enforcement officials and other state actors which assist victims of violence with anti-racism and anti-discrimination training in order to effectively assist Roma women, and other women from disadvantaged groups who are experiencing violence;
- Organises education programs for young Roma women on the protection against domestic violence.

### **Investigating hate crime**

- Consistently, clearly and strongly states that attacks against Roma and other minorities are not acceptable in Hungary, each time an incident occurs;
- Investigates promptly and impartially incidents of violence against Roma and other minorities and prosecute perpetrators of such crimes to the fullest extent of the law, whether they are committed by law enforcement officers or by private parties;
- Makes guidelines and protocols to law enforcement and judicial authorities on identifying and investigating racially-motivated crime;
- Publishes detailed statistics in a format readily available and understandable to a lay person – at minimum yearly – the number of racially-motivated crimes occurring and prosecuted, including disaggregated data on the specific victim groups;
- Introduces professional training and capacity-building activities for law-enforcement, prosecution and judicial officials dealing with hate crimes;
- Provide ways to victims of hate crimes with access to counseling, legal assistance as well as effective access to justice should be explored in co-operation with relevant actors;
- Ensure co-operation at the national and international levels, including with relevant international bodies and between police forces, to combat violent organized hate crimes.

### **Prosecution**

- Ensures that the Code on Criminal Procedure defines the procedural rights of persons with intellectual and psycho-social disabilities by introducing their special needs (such as the presence of a supporter at any procedural act) into the regulation of the Codex;

- Incorporates the special needs of persons with intellectual and psycho-social disabilities into the protocol and the training of the police, with special attention to the right to dignity of these persons.

### **Hate speech**

- Adopts and implements policy for expressions of racial animosity in the police force or other branches of law enforcement and public administration, with swift and public punishment, including dismissal of offenders;
- Adopts effective measures to prevent, identify and, where relevant, punish manifestations of racial bias in the judicial system.

### **Media**

- Modifies media legislation to ensure independent press in Hungary;
- Modifies the election of Member of the Media Council to ensure impartial and independent Authority in the field of media.

### **Freedom of Assembly**

- Modifies the act on freedom of assembly to be in line with the European Court of Human Right's decisions.

### **Right to participate and incapacity**

- Revokes plenary guardianship and guardianship with general limitations, and present alternatives, such as supported decision-making, that do not involve the restriction of the capacity to act. The restriction of the capacity to act must be a last resort.

### **Right to vote**

- Amends Article 70(5) of Hungary's Constitution, on the deprivation of the right to vote of persons under guardianship to ensure the right to vote for persons under guardianship.
- Incorporates the requirement of complex accessibility into the law on electoral procedure, thus electoral procedures in general would become barrier-free and accessible to persons with disabilities.

### **Rights of minorities to political participation on a local governmental and a national level**

- Takes effective steps to complete the legislative process on the parliamentary representation of national and ethnic minorities in cooperation with and with the consent of the national minority self-governments of the 13 national and ethnic minorities;
- Takes effective steps to ensure the parliamentary representation of numerically smaller minorities; it should utilize the concept note put forward by the Parliamentary Commissioner for the Rights of National and Ethnic Minorities regarding the issue;
- Takes more specific measures to improve the level of participatory decision-making and implementation in municipal governments with regard to minority.

### **Persons with disabilities**

- Aligns the Hungarian social policy with the objectives of international obligations, and prepares a strategy for the replacement of large residential institutions, alongside with the

introduction of community based services. Even in the case of persons with the most serious disabilities, the right to live as part of a community should be recognized.

### **Right to housing**

- Guarantees the enforceable right to housing first for the most vulnerable groups (families with dependent children, pregnant women, the elderly, the disabled, and the long term sick), and eventually for everyone in need.
- Radically improves the services and conditions of homeless shelters, increasing the social housing stock and increasing housing assistance.

### **Overrepresentation of Roma children in children's homes**

- Ensures that all child welfare workers and professional child protection workers undergo anti-discrimination, cultural awareness and tolerance training on a continuous basis;
- Develops a set of objective criteria against which the competent authorities can make objective recommendations and decisions regarding the removal of children from their families;
- Develops and adopts a system of incentives for child protection services and agencies with demonstrated results in improving preventative services and reducing the levels of children actually in need of/moved into temporary, short-term and long-term professional care;

### **Juvenile justice**

- Eliminates the possibility of sanctioning juveniles with a confinement in case of petty offences and ensure that alternative sanctions (e.g. labor in the public interest or mediation) are applicable also in petty offence proceedings against juveniles;
- Improves the conditions in juvenile penitentiary institutions and take effective steps in order to reduce the number of violent acts among inmates in these institutions.

### **Foreign unaccompanied minors**

- Ensures that migrants or asylum seekers under 18 years of age are never detained in immigration jails for committing a petty offence (illegal entry or stay in the country);
- Finds alternatives to detention in order to ensure that e.g. the right to education of migrant children is respected.

**Contributed by:** Chance for Children Foundation (CFCF), European Roma Rights Centre (ERRC), Foundation for the Women of Hungary (MONA), Hungarian Association for Persons with Intellectual Disability (ÉFOÉSZ), Hungarian Civil Liberties Union (HCLU), Hungarian Helsinki Committee (HHC), Legal Defence Bureau for National and Ethnic Minorities (NEKI), Minority Rights Group International (MRG), People Opposing Patriarchy (PATENT), The City is For All (AVM)

