

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 39TH SESSION (23 JULY – 10 AUG 2007) HUNGARY (6TH PERIODIC REPORT)

Information Submitted to the Committee.....	1
Themes and Issues.....	2
National Machinery.....	2
Political Participation.....	3
Women in the Labour Market.....	3
Stereotypes.....	3
Healthcare.....	4
Violence against Women.....	4
The Status of Romani Women.....	5
Legislation Regarding Minors.....	5
Optional Protocol Decision and Recommendations.....	6
Conclusions and Next Steps.....	6

Information Submitted to the Committee

On 31 July 2007 Hungary submitted its 6th periodic report under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses to the list of issues and questions¹ raised by the Committee on the Elimination of Discrimination against Women (the Committee). Ms. Edit Rauh, State Secretary of the Ministry of Social Affairs and Labour, led the Hungarian delegation.

The Convention was signed and ratified by Hungary in 1980. At the time, Hungary submitted a reservation to the Convention noting that Hungary did not consider itself bound to the terms of article 29, paragraph 1 which refers to the resolution of disputes between States.² This reservation was subsequently withdrawn in 1989. Hungary ratified the Optional Protocol to the Convention in 2000 without reservation or declaration.³

Since its last periodic report in 2002, Hungary has taken some important steps towards implementation of the Convention, but acknowledged that much still remains to be done to fully realise gender equality. The delegation noted that since 1998, Hungary has been in a period of transition and has had to struggle with many social problems, of which gender equality is only one, and sought comments from the Committee for areas of further improvement.

¹ <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

² <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm#N30>.

³ <http://www.ohchr.org/english/law/index.htm>.

Three shadow reports were submitted to the Committee. The shadow report submitted by the Hungarian Women's Lobby reviewed the implementation of all aspects of the Convention.⁴ The report submitted by Amnesty International highlighted the institutional failings for women who have been raped or who are affected by sexual violence in the home.⁵ The final report, submitted by the European Roma Rights Centre, concerned the situation of Roma women in Hungary.⁶

Hungary is a party to a number of international instruments including the *Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *Convention on the Rights of the Child*.⁷

Themes and Issues⁸

National Machinery

In its opening statement, the delegation noted that since the last elections, the Government had undergone significant restructuring and that the Department of Equal Opportunities had been relocated in the Ministry of Social Affairs and Labour. Ms. Rauh noted that the functions and activities of the department had not been adversely affected.

The delegation also called attention to the restructuring of the Council for the Social Equality of Women and Men, a consultative and advisory body that provides recommendations to the Government. The membership of this group is comprised of members from non-governmental organisations (NGOs) and experts in the field of gender equality. The delegation reported to the Committee that the Council was active and influential in improving the work of the Ministry.

The delegation also mentioned the adoption in 2003 of the Equal Treatment Act and its implementing body, the Equal Treatment Authority (the Authority). The Equal Treatment Act prohibits unequal treatment on the basis of 18 characteristics, including gender. The Authority is comprised of fifteen full-time lawyers and a staff of 6 who serve in a consultative role.

In 2006, the Authority investigated 202 cases, only seven of which were related to gender discrimination. The Committee noted that this was a very low number. Of the seven gender discrimination cases, one case was found in favour of the plaintiff, and the other six were withdrawn by the complainant. The Committee questioned the reasons for individuals withdrawing their cases. The delegation explained that in several cases, despite the existence of witness protection services, complainants were unable to produce witnesses to support their case. The delegation further stated that fear and anxiety could play a role in a woman's decision to pursue the case.

The delegation highlighted that all NGOs can petition the National Civil Fund for support, noting that most of the programs are aimed at gender equality. To date, 100-120 women's NGOs have received funding.

⁴ *Shadow Report of the Hungarian Women's Lobby*. Available online at <http://www.iwraw-ap.org/resources/pdf/Hungary%20SR%20final.pdf>.

⁵ *Hungary: Cries unheard: The failure to protect women from rape and sexual violence in the home*. Available online at <http://web.amnesty.org/library/Index/ENGEUR270022007?open&of=ENG-HUN>.

⁶ *Written Comments of the European Roma Rights Centre Concerning Hungary*. Available online at [http://www.iwraw-ap.org/resources/pdf/Hungary%20SR%20\(Roma\).pdf](http://www.iwraw-ap.org/resources/pdf/Hungary%20SR%20(Roma).pdf).

⁷ <http://www.ohchr.org/english/law/index.htm>.

⁸ A more detailed description of the dialogue between the Committee and the Hungarian delegation can be found at <http://www.un.org/News/Press/docs/2007/wom1645.doc.htm>.

Finally, the delegation discussed the 2007-2013 National Development Plan 2 (or New Hungary Development Plan) which incorporates gender aspects of equal opportunity programmes with effective monitoring mechanisms.

Political Participation

The Committee stated that efforts to include women in Parliament have been inadequate, and that information on gender-disaggregated data in this area was sparse. The delegation highlighted that the Ministry of Social Affairs and Labour had recently updated and published a statistics pocketbook, which included local public administration data. The delegation also mentioned a draft bill due to be discussed in Parliament that would provide for equal representation for list candidates in Parliament. The delegation also commented on the last election in which the Socialist party (currently in power) imposed a quota of 20 per cent female candidates for itself.

Women in the Labour Market

The delegation pointed to several developments in Hungary regarding the situation of women in the labour market. They called attention to programs to support re-entry into the workforce for women after having a child, programs to help female entrepreneurs, and the promotion of family-friendly workplaces.

The delegation noted that strategies and plans to address the wage gap in Hungary are in need of further development. Equal pay for equal work is stipulated in the labour code but it is not being enforced. The delegation enumerated a number of difficulties including the comparison of different jobs, the size of the organisation and the particular sector of the economy that may make equal remuneration more difficult.

The Committee questioned the delegation on the presence of women in the informal labour market, especially in light of the fact that this sector of the economy is expanding. The delegation remarked that the Government is taking efforts to “bleach out” the black market, where women often carry out household work. For example, several companies and NGOs are working on a system to purchase these household services so to create a more formal market-based system instead.

Stereotypes

The Committee noted with concern that the Hungarian media appears to typically portray women as either serving a purely domestic role or as sexual objects. The Committee enquired as to what programs and policies have been put into place for the young to help overcome stereotypes, especially in the media. Additionally, the Committee commented on the generally slow implementation of policies to combat stereotypes in Hungary.

The delegation described a series of programs creating incentives and providing grants for media projects dealing with issues such as sexual harassment in the workplace and domestic violence. The delegation also noted the Advertising Ethics Committee, comprised of representatives of the 22 largest advertising companies in Hungary, which has committed itself to socially responsible advertising.

The Ministry of Social Affairs and Labour also has a working group whose major role is the elimination of stereotypes. Through their efforts, a DVD on stereotypes has been created to be distributed out to pilot schools this coming school year. This working group is scheduled to produce a working plan by the end of this year and create a series of advertisements for these purposes to reach most of the country.

Healthcare

In its opening statement, the delegation discussed an important development since its last report in the form of two types of cancer screenings provided to Hungarian women. Invitations for breast and cervical cancer were sent to women all over the country. Regional participation rates varied and the delegation acknowledged that this presented a challenge. To improve participation, a game was developed that offered prizes to participants in cervical screening which had the surprisingly positive result that 41 per cent of participants had never had a screening before. Additionally, the delegation noted that mobile screening stations had met with some success but the cost involved did not allow for country-wide availability.

The Committee noted that although there has been a decrease in the number of abortions in Hungary, the figures were still quite high. The Committee pointed out that in 2006 there were 47 abortions for every 100 live births, which indicated that perhaps abortion was being abused in Hungary. The delegation acknowledged that the rates were high, but drew attention to a trend of decline in abortion rates.

The Committee asked the delegation about the availability and affordability of contraceptives, noting that the Hungarian report stated that in some cases it is cheaper for women to have an abortion paid for by the social security system than to use contraception.⁹ The delegation stated that methods of contraception are known and available, but acknowledged that truly disadvantaged women cannot afford it.

Violence against Women

The Committee commended the delegation on several campaigns to highlight violence against women, the creation of regional crisis centres, and the establishment of a hotline dealing with violence against women. The Committee commented with concern on the still high rates of domestic violence in Hungary, noting that 25 per cent of women over the age of 14 are victims of domestic violence.

The delegation noted the adoption of the legal institution of restraining orders. However in the short period of time that restraining orders have been available, the delegation admitted, it has become clear that the process needs much improvement. The Committee questioned the application fee and the short 30 day period for which the restraining order was effective. The delegation told the Committee that the application fee was only required when filing the infrequent private restraining order and that the fee was frequently returned to the filer.

The Committee noted that Hungary is still not dealing effectively with rape and other forms of violence against women, in particular because of the attitudes of police force and court employees.. The Committee then called attention to the shadow report submitted by Amnesty International which detailed stereotypes and the fact that women who suffer domestic violence are made to feel that it is their fault.

Additionally, the Committee highlighted that rape in Hungary is defined as an incident where force is used, and the burden of proof is on women. Further, the penal code defines rape or assault as crimes against sexual morality. The Committee urged the definition be changed to a lack of consent or 'no means no'. The delegation admitted that a shift in attitude is necessary in law enforcement and administrative systems. The delegation also informed the Committee that requests have been made to redefine the crimes of rape and assault, and asked that the Committee cover this issue in their recommendations in the hope that it would lead to a positive change in this area.

The Status of Romani Women

⁹ This information can be found on page 37 of Hungary's 6th periodic report, accessible online at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/402/22/PDF/N0640222.pdf?OpenElement>.

The Committee drew attention to the double discrimination that Romani women face in all aspects of life based on both their gender and their ethnicity. The delegation fielded questions and concerns from the Committee regarding Romani women in discrimination, education, and housing.

The delegation pointed to a ten-year strategic plan adopted by Parliament in 2007 to focus on Romani people, including periodic reporting on the status of Romani individuals. The Committee expressed concern that the plan was gender neutral and not designed to specifically address the situation of Romani women. The Committee added that there was no gender disaggregated data for the Romani people, and that it is not enough to report on Romani people as a whole.

Romani women face serious discrimination and are subject to stereotypes that imply that they are an inferior class of people, the Committee emphasised. The delegation explained to the Committee that stereotypes appear most often in public opinion, and assured the Committee that the Government is working on changing this image. The delegation emphasised teacher training programs and the option for students to study minority culture in their curriculum.

In addition to being discriminated against more generally, the delegation explained that Romanis typically have a very low level of education. For example, young mothers with several children often must drop out of school to care for them. The delegation noted measures identified by Parliament to increase the education of Romani people, including a proposed transit employment program where adults can attend school and receive a financial grant similar to a salary.

Finally, Romani people generally face much worse housing conditions than other Hungarians. The delegation noted that of the 100,000 people living in ghetto-like conditions in Hungary, most were Romani. The delegation told the Committee that improving this situation is not just a matter of better housing, but requires employment possibilities, improvement of healthcare services and other persistent 'colony elimination' measures. The delegation called attention to the Hungarian Development Plan and the Rural Development Strategic Plan, which contain measures addressing the poorest members of society. The delegation explained however that the programs are not necessarily aimed at Romani people, but based on social criteria.

Legislation Regarding Minors

The Committee questioned the delegation on legislation regarding minors with respect to age of consent, marriage, and pornography. The Committee was concerned that 14 is the legal age of consent in Hungary. It noted that girls at 14 are still quite young and that this potentially exposes them to sexual exploitation and abuse. The delegation stated that 14 as the age of consent fit with social norms in Hungary.

The Committee also noted that though the legal age for marriage is 18, there are provisions in the legislation for marriage of girls as young as 16 years old. The delegation explained that in order for individuals under 18 to marry, they needed to fulfil a set of requirements including guardian permission. A Guardianship Authority has a personal hearing with all minors interested in marriage and that marriage must serve the interest of the minor. They assured the Committee that being pregnant was not enough.

The Committee sought further information regarding child pornography in Hungary, specifically laws addressing the creation and publication of pornography of the so-called 'non-existent child', currently a violation of public decency in Hungary. The Committee called on the delegation to explain why this act is not more than a crime against public decency. The delegation explained that if the pornography is not of a specific child, but rather one created with digital software or a photo montage, that the crime is one against public decency. The delegation assured the Committee that this was quite a severe crime and sufficiently deterred the publication of these types of pictures.

Optional Protocol Decision and Recommendations

Since ratifying the Optional Protocol, two cases have been submitted to the Committee for review by Hungarian women. The case of Ms. S vs. Hungary was discussed repeatedly during the meeting. In this case, Ms. S petitioned the court that her rights had been violated when she was sterilised without her informed consent. Both the court of first instance and the second appeals court found that there had been negligence on the part of the doctor, but rejected Ms. S's claim that there had been an infringement of her rights.

The Committee found that there was a violation of rights in the case of Ms S, and that compensation should be awarded. Despite initial communication implying that the Government would award compensation to Ms. S, the Government has since reversed their position for two reasons, stating that a decision by an appeal case is final, and that Hungarian courts did not find an infringement of rights under Hungarian law.

The Committee repeatedly stressed that the Convention supersedes domestic law. Several members argued that the decision was legally binding in Hungary and that it 'would be wise to act accordingly.' The delegation maintained that since neither the first court, nor the court of appeals found an infringement of rights, compensation would not be awarded.

The delegation also pointed out that it was the position of the Government to emphasise prevention, including the amendment of legislation and the adoption of the Committee's recommendation regarding informed consent. The delegation also said that the discussion of the Optional Protocol cases had given the Government a chance to have a useful dialogue regarding healthcare, especially with respect to informed consent and the use of standardised forms.

Conclusions and Next Steps

In its closing comments, the Committee expressed appreciation of the achievements since Hungary's last report. The Committee reiterated the binding nature of the treaty and also expressed a desire to see more support for national mechanisms. The Committee commended the cooperation of civil society in legislative and social services. Finally, the Committee told the delegation that they expected that the results of this discussion would be submitted to Parliament for consideration.

For its part, the delegation expressed gratitude for the work of the Committee, and noted that questions have helped to call attention to short-comings that it hopes will be solved in the future. The delegation assured the Committee that it would do everything possible to comply with Committee recommendations, as well as report them to Parliament, in particular emphasising those associated with the Optional Protocol.

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