



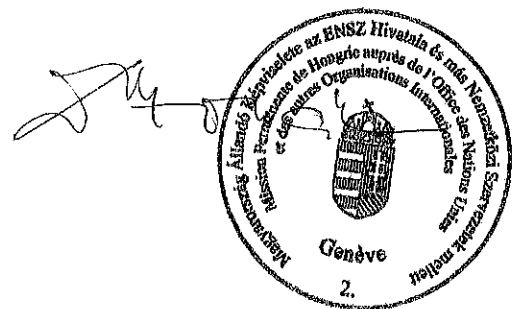
Permanent Mission of Hungary to the United Nations Office, the World Trade Organization
and Other International Organizations in Geneva

No. 60/2015/HU/GVA

17 April 2015

The Permanent Mission of Hungary to the United Nations Office, to the World Trade Organization and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honour to transmit herewith the information provided by Hungary regarding the prevention of human rights violations and its practical implementation. (Human Rights Council resolution 24/16 on "The role of prevention in the promotion and protection of human rights")

The Permanent Mission of Hungary to the United Nations Office, to the World Trade Organization and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
UNITED NATIONS

GENEVA

CONTRIBUTION BY HUNGARY
TO THE INFORMATION REQUEST OF THE UN OHCHR'S INQUIRY ON THE
HUMAN RIGHTS COUNCIL RESOLUTION 24/16 ON THE ROLE OF PREVENTION IN
THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Questionnaire:

Please describe legislative, judicial, administrative and other measures aimed at prevention of human rights violations and abuses in place at the domestic level both with regard to direct and indirect prevention. Please describe any good practices in the implementation of these measures, as well as any challenges which have been found. Please describe how such measures encompass all branches of the State, and other public government authorities, at whatever level – national, regional or local. How have partnerships with civil society been strengthened to harness their experience and expertise to promote and protect human rights?

Since 2010, the Hungarian legislator reviewed and re-regulated the most important mechanisms for the promotion and protection of human rights with a view to strengthening them. As a result, parallel to the preparation of the Fundamental Law of Hungary, the Act on the Commissioner for Fundamental Rights was adopted, and the Act on the Right to informational self-determination and freedom of information was updated.

The Fundamental Law and the new Act on the Commissioner for Fundamental Rights created a coherent and consistent organizational structure of the ombudsperson system. In this system the Parliament elects a single Commissioner for Fundamental Rights equipped with the entirety of rights and responsibilities necessary for the effective protection of the fundamental rights. The two Deputy-Commissioners are responsible for the protection of the interests of future generations and for the protection of the interests of nationalities living in Hungary. The Act on the Right to informational self-determination and freedom of information set up the National Authority for Data Protection and Freedom of Information. The Authority, fully in line with the relevant European and international standards, is equipped both with the toolset of an ombudsperson and that of an administrative authority.

Act CXXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities also created the Equal Treatment Authority that is competent in every situation where the right to equal treatment regulated in detail in this Act is being violated according to a victim of this alleged violation.

In addition the Government of Hungary set up the inter-ministerial Human Rights Working Group (HRWG) in February 2012 which was tasked to monitor human rights in Hungary, the implementation of accepted UPR recommendations, to consult with stakeholders engaged in human rights matters and to advise the Government on human rights legislation. To engage the civil society and other stakeholders the HRWG operates a Human Rights Roundtable composed of 12 sub-working groups with the participation of the Government, the representatives of the Commissioner for Fundamental Rights, the Equal Treatment Authority, the National Authority for Data Protection and Freedom of Information, and more than 40 non-governmental organizations active in this field. The 12 sub-working groups are covering

the following clusters: freedom of opinion, other civil and political rights, economic, social and cultural rights, rights of Roma, minorities, women, children, disabilities, elderly, homeless, LGBT, and refugees. The proposals and the criticism by the 12 thematic sub-working groups of the Human Rights Roundtable are submitted to the HRWG on the level of the state secretaries for follow-up action which can result in legislative proposals by the Government. During the sessions accession to human rights conventions and the better implementation of the already existing international obligations of Hungary were discussed recurrently.

What action-oriented policies, practices and strategies to prevent human rights violations and abuses have been put in place at the national level, including the establishment of independent national institutions, national human rights action plans and any early warning mechanisms? Please describe how national human rights institutions contribute to the prevention of human rights violations.

Article 30 of the Fundamental Law of Hungary states that the Commissioner for Fundamental Rights shall undertake activities aimed at protecting fundamental rights, and these proceedings may be requested by anyone. The Commissioner for Fundamental Rights shall investigate - or have investigated by others - any violation related to fundamental rights that have come to his or her knowledge, and shall initiate general or specific measures for their remedy. The Commissioner shall pay special attention, especially by conducting proceedings ex officio, to the protection of the rights of children, 'the interests of future generations', 'the rights of nationalities living in Hungary', and the rights of the most vulnerable social groups. In the course of these activities the Commissioner shall survey and analyse the situation of fundamental rights in Hungary, and shall prepare statistics on those infringements of rights which are related to fundamental rights. The Commissioner shall give an opinion on the draft legal rules affecting his or her tasks and competences, on long term development and spatial planning plans and concepts, and on plans and concepts otherwise directly affecting the quality of life of future generations, and may make proposals for the amendment or making of legal rules affecting fundamental rights and/or for the expression of consent to be bound by an international treaty. The Commissioner may initiate at the Constitutional Court the review of legal rules as to their conformity with the Fundamental Law, the interpretation of the Fundamental Law and, within thirty day after their promulgation, the review of the adherence to the procedural requirements stipulated by the Fundamental Law as regards the adoption and promulgation of the Fundamental Law and its amendments. The Commissioner shall participate in the preparation of national reports based on international treaties relating to his or her tasks and competences, and shall monitor and evaluate the enforcement of these treaties under Hungarian jurisdiction. The Commissioner shall promote the enforcement and protection of fundamental rights. In doing so, he or she shall engage in social awareness raising and information activities and cooperate with organisations and national institutions aiming at the promotion of the protection of fundamental rights.

The Office of the Commissioner for Fundamental Rights of Hungary received the National Human Rights Institution (hereinafter NHRI) B-status classification from the International Coordinating Committee for National Human Rights Institutions (hereinafter ICC) in May 2011. In the summer of 2013, the Commissioner submitted a reaccreditation application for receiving NHRI A-status from the Sub-Accreditation Committee (hereinafter SCA) of the ICC due to the legislative and institutional changes in the Hungarian ombudsman system in 2012. In the meeting of SCA held in Geneva on 27-31 October 2014, the Sub-Committee proposed the A-status to be given to the Office of the Commissioner for Fundamental Rights

of Hungary, which recommendation was not objected by any of the participating member states. The prestigious NHRI-A-status requires full compliance with the Paris Principles.

Obtaining the A-status, the Office of Commissioner for Fundamental Rights of Hungary is completing its duties as national human rights institution in the country: being the impartial and independent guardian of the fundamental rights, it plays an active role in the international human rights mechanisms and it participates in the UN OHCHR's, the ICC's and their regional institutions' work as well.

In those States that have established a national preventive mechanism under the Optional Protocol to the Convention against Torture, please provide information on any lessons learnt regarding prevention of torture that may also apply to prevention of other human rights violations.

The UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment became part of the domestic legal system in Hungary as a result of the adoption of Legislative Decree 3 of 1988. The Hungarian Parliament adopted Act CXLIII of 2011 on the Promulgation of the Optional Protocol to the Convention (hereinafter referred to as the "Protocol"), aimed at the practical implementation of the ban on torture and other cruel, inhuman or degrading treatment or punishment, on October 24, 2011. The Protocol established a system within which independent international and national bodies may regularly inspect those places where people deprived of their liberty stay.

As of January 1, 2015, the Commissioner for Fundamental Rights proceeds as National Preventive Mechanism either personally or with the cooperation of his colleagues. The tasks related to the National Preventive Mechanism are performed by eleven staff members of the Office of the Commissioner for Fundamental Rights, all with an outstanding knowledge in the field of the treatment of persons deprived of their liberty or having at least five years of professional experience. Among the authorized public servant staff members, the number of the representatives of either sex may exceed that of the other by one at the most. Among them there is at least one person who has been proposed by the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of nationalities living in Hungary and at least two persons each with a degree in law, medicine and psychology respectively. The Commissioner for Fundamental Rights is also entitled to authorize, either provisionally or temporarily, outside experts to cooperate in the implementation of his/her tasks.

During the inspections the Commissioner or his authorized colleagues may inspect without any restriction all documents concerning detention, and make copies thereof. All classified information is treated confidentially. It is provided by the law that no personal data shall be published without the express consent of the person concerned, and no one having communicated any information to the Commissioner or his colleagues acting as National Prevention Mechanism shall be prejudiced in any way.

The National Preventive Mechanism prepares reports on his inspections, specifying their findings and the conclusions based thereon. In addition to his colleagues, the Commissioner may involve other experts in the preparation of the report. The National Preventive Mechanism maintains contacts with the media through the Office of the Commissioner for Fundamental Rights.

The Commissioner may initiate effective measures aimed at terminating and preventing from recurring treatments, identified in the course of his inspections that disregard the ban on torture, inhuman or degrading treatment or punishment.

3. Please describe what policies and processes are in place at national level to collect, maintain and analyse statistical records on the situation of human rights in the country, in order to monitor the human rights situation and inform the formulation of prevention strategies and programmes, and please describe any good practices and the main challenges in this regard.

Section 2 (1) of Act CXI of 2011 on the Commissioner for Fundamental Rights establishes that the Commissioner shall survey and analyse the situation of fundamental rights in Hungary, and *shall prepare statistics* on those infringements of rights in Hungary which are related to fundamental rights. At the request of the Commissioner, the public administration organ monitoring the enforcement of the requirement of equal treatment (Egyenlő Bánásmód Hatóság – EBH), the National Authority for Data Protection and Freedom of Information (Nemzeti Adatvédelmi és Információszabadság Hatóság – NAIH), the Independent Police Complaints Body (Független Rendőrségi Panasztestület – FRPT) and the Commissioner for Educational Rights (Oktatási Jogok Biztosa – OJB) shall supply aggregate data not containing personal data for the purpose of statistical reports.

Statistical data on the activities of institutions that protecting human rights in Hungary:

Statistics (Year 2014)	AJBB	EBH	FRPT	NAIH	OJB
Total number of complaints received	5471*	432	819	2063	1503*
Ex officio investigations	87	4		41	3
Rejected complaints	3719	100	136	276	203
Cases investigated	815	432	216	720	69
Violations identified	305	23	108	354	23
Condemning decision	264			747	12
Initiations for remedy		20		24	

*Total number of submitted cases does not include those which were solved in short run, such as they were handled on the phone or in person. The number of cases solved in short run is 14365 at the Office of the Commissioner for Fundamental Rights, and 862 at OJB.

What measures have been taken to promote a human rights culture among the population an increase the level of human rights awareness in your country, including among public officials?

Based on the previous Commissioner's practice and long-term way of thinking, every year the Commissioner initiates special projects in which its Office investigates topics of particular

importance for the society and the enforcement of the rule of law. The project method can be particularly effective in addition to the investigation of individual complaints, when the basic rights or the human dignity of an exposed social group, unable to assert its rights or to complain, is violated, or when conspicuously grave or massive violations of rights can be experienced in a given field.

When carrying out such projects the Commissioner stresses co-operation and communication with institutions, experts and civil organisations concerned as a prominent objective, in addition to the improvement of their practice in the given area. Regular consultations, professional conferences and workshop discussions, as well as professional and art competitions are common points of the various projects. Activities aimed at the enhancement of legal consciousness and shaping public opinion address different target groups: in addition to the stakeholders, experts getting in touch with them, and society and public opinion at large.

What measures and procedures have been put in place to ensure effective follow-up to recommendations regarding your country issued by international or regional human right mechanisms and which may contribute to preventing human rights violations?

For UPR recommendations see above the first response (part on the Human Rights Working Group). . Regarding recommendations issued by treaty bodies and regional human rights mechanisms, the relevant national authority identified by the legislative act transposing the international or regional instrument into national legislation bears the prime responsibility to ensure effective follow-up to such recommendations, the Ministry of Foreign Affairs and Trade having a horizontal coordination responsibility in such activity.

What legislative, judicial, administrative and other measures are in place to provide victims of human rights violations by State actors and abuses by non-State actors with an effective remedy?

Besides the remedies provided by the local courts anyone may turn to the Commissioner Fundamental Rights, if in his or her judgment the activity or omission of any authority infringes his/her fundamental right or if an imminent danger thereof exists. Act CXI of 2011 on the Commissioner for Fundamental Rights lays down the detailed rules for the competence and responsibilities of the Commissioner. In the course of his/her activities the Commissioner shall pay special attention, especially by conducting proceedings *ex officio*, to the protection of a) the rights of children, b) the interests of future generations, c) the rights of nationalities living in Hungary), and the rights of the most vulnerable social groups.

According to the Act, the Commissioner may even proceed exceptionally if, on the basis of the petition, it may be presumed that the activity or omission of an organization not qualifying as authority gravely infringes the fundamental rights of a larger group of natural persons.

Fundamental rights may be infringed in particular by the following:

- unreasonably long proceedings,
- discrimination,
- provision of inaccurate or wrong information,
- unfair treatment,
- refusal to disseminate information on unreasonable grounds,

- unlawful decision.

A very important aspect of the Commissioner's role is that a complaint may be filed even if the complainant has already exhausted the available administrative remedies – except for judicial review of administrative decisions –, or where no legal remedies are ensured.

In the course of his/her activities the Commissioner shall – especially by conducting proceedings ex officio – pay special attention to assisting, protecting and supervising the implementation of the Convention on the Rights of Persons with Disabilities, promulgated by Act XCII of 2007.

Cases where the Commissioner cannot help:

- If the procedure has begun before 23rd October 1989 (the date when the Republic was proclaimed).
- If the non-appealable decision was made more than 1 year ago.
- If the legal proceeding is pending or is already res judicata.

What measures are in place to ensure that all can access such remedies in practice?

Complainants can contact the Office of the Commissioner for Fundamental Rights of Hungary in different ways. The complaint can be filed both orally in person at the Office's building and in writing (also via email or the Commissioner's online system). There is no difference in managing cases according to whether the complaint was sent electronically or by post.

Important to know regarding the procedures handled by the Commissioner:

- In conducting his or her proceedings, the Commissioner shall be independent, subordinated only to Acts. If, on the basis of an inquiry conducted, the Commissioner comes to the conclusion that the impropriety in relation to a fundamental right does exist, in order to redress it he or she may address a recommendation to the authority to the supervisory organ of the authority subject to inquiry.
- No one shall suffer a disadvantage for turning to the Commissioner.

What contribution do international and regional organisations make to the prevention of human rights violations?

The European Convention on Human Rights is an international treaty which only member States of the Council of Europe may sign. The Convention established the European Court of Human Rights, contains a list of the rights and guarantees which the States have undertaken to respect.

The Court applies the European Convention on Human Rights. Its task is to ensure that States respect the rights and guarantees set out in the Convention. It does this by examining applications lodged by individuals or, sometimes, by States. Where it concludes that a member State has breached one or more of these rights and guarantees, the Court delivers a judgment finding a violation. Judgments are binding: the countries concerned are under an obligation to comply with them.

Anybody can lodge an application with the Court if she/he considers that she/he has personally and directly been the victim of a violation of the rights and guarantees set out in the Convention or its Protocols.

If the Court finds that there has been a violation, it may award “just satisfaction”, a sum of money in compensation for certain forms of damage. The Court may also require the State concerned to refund the expenses for the victim which may have incurred in presenting the case.

Hungary ratified the Convention in 1993. Since then the Court delivered 814 judgments in connection of Hungary. Hungary executed all the judgments of the Court on time.

In addition the Criminal Procedure Act provides that if an international body established by an international agreement ratified by Hungary declares that a decision of a Hungarian court violates one or more articles of an international agreement ratified by Hungary previously, and the violation could be repaired by a new criminal procedure, re-opening of the case is possible.

Budapest, 14 April 2015