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**Human Rights Committee****122nd session**

12 March-6 April 2018

Agenda item 5

**Consideration of reports submitted by States parties  
under article 40 of the Covenant****Concluding observations on the sixth periodic report of  
Hungary**

1. The Committee considered the sixth periodic report of Hungary (CCPR/C/HUN/CO/6) at its 122nd and 3464th and 3465th meetings (CCPR/C/SR.3464 and 3465), held on 19 and 20 March 2018. At its 3478<sup>th</sup> and 3480th meeting(s), held on 29 March 2018, it adopted the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the sixth periodic report of Hungary through the simplified reporting procedure in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/HUN/QPR/6). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

**B. Positive aspects**

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption on 1 January 2012 of a bill of rights within the framework of the Fundamental Law;

(b) The establishment in 2015 of the National Disability Programme for the period of 2015-2025;

(c) The establishment in 2013 of the National Strategy against Trafficking in Human Beings for 2013-2016; and

(d) The establishment in 2011 of the National Social Inclusion Strategy for the period of 2014-2020.

4. The Committee welcomes the ratification of the Optional Protocol to the Convention against Torture on 12 January 2012 by the State party. The Committee also welcomes the signature of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) on 14 March 2014 by the State party.

## B. Principal matters of concern and recommendations

### Constitutional and legal framework within which the Covenant is implemented

5. The Committee is concerned about the level of protection afforded in law and practice to fundamental rights in Hungary, as the Fundamental Law has been subject to frequent amendments, often pertaining to laws that the Constitutional Court earlier found unconstitutional. The Committee also notes that the *actio popularis* institution has been abolished in the new Constitution, and is concerned that the current constitutional complaint procedure affords more limited access to the Constitutional Court, does not provide for a time limit for the exercise of Constitutional review and does not have a suspensive effect on challenged legislation. The Committee is also concerned about the use of cardinal laws that shield governmental policies from change by an ordinary majority in Parliament, and about limited information concerning application of or reference to the Covenant by the Supreme Court and the Constitutional Court (art. 2).

6. **The State party should respect the separation of powers and institutional checks and balances between elected institutions and judicial institutions entrusted with protecting human rights, including minority rights. In particular, it should ensure that the constitutional review process is effective and provides, in law and in fact, adequate legal safeguards to ensure full protection for the Covenant rights in the domestic legal order. The State party should also take measures to raise awareness to the need to ensure that domestic laws are interpreted and applied in conformity with its obligations under the Covenant.**

### Legislative Process

7. The Committee notes the many legislative reforms in the State party since the last review of its periodic report but is concerned about the process by which legislation has been adopted, and the negative impact of some of the resulting legislative provisions adopted on the promotion and protection of human rights in Hungary. The Committee notes with concern in particular reports about insufficient consultation with opposition politicians, and the fast pace in which the legislative process often takes place, especially when initiated by committees and individual law-makers, including the failure to allow sufficient transparency of draft legislation and sufficient time for deliberation, public consultations and impact assessment. It is also concerned about the practice of making substantive legislative amendments after the end of parliamentary deliberation under a special measure aimed only to review technical or incoherent provisions (art. 2, 19 and 25).

8. **The State party should strengthen its legislative process, especially for laws affecting the enjoyment of human rights, by ensuring that mechanisms are in place to guarantee a transparent, inclusive and participatory process, including with opposition politicians, civil society, other relevant stakeholders and the general public, with adequate opportunity and time for meaningful review and proper debate of legislative proposals and amendments.**

### Views under the Optional Protocol

9. While noting with satisfaction the State party's statement that it is of the "utmost importance for Hungary to comply with the Committee's Views to the extent possible in the framework of the Hungarian legal system", the Committee regrets the lack of information regarding the implementation of the Committee's Views under the Optional Protocol to the Covenant (art. 2).

10. **The State party should take all necessary measures to implement the Views adopted by the Committee so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2 (3) of the Covenant.**

### Administration of justice

11. The Committee is concerned about the provisions of the new Constitutional Court Act, which weaken the security of tenure of judges and increase the influence of the government over the composition and operation of the Constitutional Court by changing the judicial appointment procedure, the number of judges in the Court and their retirement age, and by transferring administrative authority over the judicial system from the National Judicial Council to the National Judicial Office. In addition, the Committee notes with concern the premature termination of the mandate of the former President of the Supreme Court, Judge Baka, allegedly for having criticized reforms of the judiciary. It is also concerned about the limitation of the Constitutional Court's competence and powers to review legislation impinging on budgetary matters (arts. 2 and 14).

**12. The State party should review the legislative framework governing the powers of the Constitutional Court with a view to reinstate its formal competencies and should take measures to guarantee and protect the full independence and impartiality of the judiciary by, inter alia, ensuring that judges operate without pressure and interference from the executive branch or other outside influences. It should also ensure that the appointment and promotion of judges is made in accordance with objective criteria of competence and merit and that dismissal of judges only takes place on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality established by law (General Comment 32, para. 20).**

### National human rights institution

13. While welcoming the A status granted in 2014 to the Commissioner for Fundamental Rights of Hungary by the Global Alliance of National Human Rights Institution, and the commitment of the State party to guarantee the necessary resources for all needs of the Commission, the Committee is concerned about reports that the Commissioner lacks the human and financial resources necessary to effectively carry out its mandate (art. 2).

**14. The State party should review the financial and other resource needs of the Commissioner for Fundamental Rights of Hungary and ensure it has the financial and other resources necessary to effectively and independently implement its mandate.**

### Roma exclusion

15. While noting the adoption of various strategies and programmes to improve the situation of the Roma community and the progress made in certain areas such as school attendance by Roma children, the Committee is concerned about reports that the Roma community continue to suffer from widespread discrimination and exclusion, unemployment, housing and educational segregation. It is particularly concerned that notwithstanding the Public Education Act (2012), segregation in schools, especially Church and private schools, remains prevalent and the number of Roma children placed in schools for children with mild disabilities remains disproportionately high (arts. 2, 24 and 26).

**16. The State party should increase its efforts to promote non-discriminatory access to opportunities and services in all fields for members of the Roma community. It should also adopt measures to effectively monitor and eradicate the practice of educational segregation of Roma children, and ensure that objective and standardized procedures based on scientific methods are provided to and used by all experts assessing children as disabled and that education is provided to all Roma children on a non-discriminatory basis.**

### Hate speech, hate crimes, racism and discriminatory behaviour by the police

17. While acknowledging that the Criminal Code includes hate crimes, the Committee is concerned about the prevalence of hate crimes and about hate speech in political discourse, the media and on the Internet targeting minorities, notably Roma, Muslim, migrants and refugees, including in the context of government-sponsored campaigns. The Committee notes the information given by the State party about the measures taken to promote Jewish life in Hungary, but expresses its concern over the prevalence of anti-Semitic stereotypes and

about the negative historical associations arising out of the manner in which high-ranking officials have nurtured conspiracy theories relating to George Soros. The Committee also notes with concern allegations that the number of registered hate crimes is extremely low because the police often fail to investigate and prosecute credible claims of hate crimes and criminal hate speech. Finally, the Committee is concerned about reports of persistent practice of racial profiling of the Roma by the Police (arts. 2, 18, 20 and 26).

**18. The State party should regularly, publicly and effectively reaffirm that any advocacy of ethnic or racial hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law and should act promptly to bring perpetrators of hate crimes to justice. It should take effective measures to improve the reporting investigating, prosecuting and punishment of hate crimes and criminal hate speech, in accordance with the obligations of the Covenant, and should strengthen its efforts to eradicate stereotyping and discrimination against, inter alia, migrants, refugees, Jews and Roma, by conducting public awareness campaigns to promote tolerance and respect for diversity and on the unacceptability of racial profiling. It should also ensure that state officials responsible for discriminatory behaviour towards Roma and other minority groups are held accountable in all instances.**

#### **Discrimination against lesbian, gay, bisexual and transgender persons**

19. The Committee is concerned that the Fundamental Law's ban on discrimination does not explicitly list sexual orientation and gender identity among the grounds of discrimination and that its restrictive definition of family may give rise to discrimination as it does not encompass certain types of family arrangements, including same-sex couples. The Committee is also concerned about the acts of violence and the prevalence of negative stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, particularly in employment and education sectors (arts. 2, 3, 6, 7, 17 and 26).

**20. The State party should:**

**(a) Prohibit discrimination comprehensively on all grounds, including sexual orientation and gender identity, and in all spheres and sectors, including education, employment, marriage and family arrangements;**

**(b) Ensure access to effective remedies for all any act of discrimination and ensure that courts interpret discrimination laws in accordance with the Covenant;**

**(c) Take necessary measures to curb discrimination against lesbian, gay, bisexual and transgender persons with regard to family arrangements and;**

**(d) Ensure effective identification, recording, investigation, prosecution and adequate punishment of acts of violence motivated by the sexual orientation or gender identity of the victims, and intensify efforts to combat negative stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, including by providing training to law enforcement officials.**

#### **Persons with disabilities**

21. While noting the State party's progress in promoting and protecting the rights of persons with disabilities, the Committee is concerned at the forced placement in medical institutions, isolation and forced treatment of large numbers of persons with mental, intellectual and psychosocial disabilities, and the inadequacy of the current legal frameworks to achieve deinstitutionalization and enhance appropriate community-based support. The Committee is concerned that, to date, only a small number of persons with such disabilities are being supported by the new system of supported decision-making, established by the new Civil Code (2014), and about the reported tendency to deprive persons with such disabilities of legal capacity, including the right to vote, despite their ability to engage in social interactions. The Committee is also concerned about reported violence, cruel, inhuman and degrading treatment as well as allegations of a high number of non-investigated deaths in closed institutions. In this regard, it is particularly concerned about the reported evidence of torture and ill-treatment of 220 children and adults with disabilities in the State-run Topház Special Home in the city of Göd. The Committee is also concerned about reports that, despite

the legal prohibition, some forced sterilization of persons with disability still occur (arts. 2, 6, 7, 9, 10, 14, 16, 25 and 26).

**22. The State party should:**

**(a) Ensure that persons with disabilities are not discriminated against, in law and in fact, in the enjoyment of their rights;**

**(b) Review its policy of limiting the legal capacity of persons with mental disabilities and establish the necessity and proportionality of any such measures of limitation, on an individual basis, with effective procedural safeguards, ensuring that all persons who have their legal capacity restricted have prompt access to an effective judicial review of the decisions and free and effective legal representation in all proceedings regarding their legal capacity;**

**(c) Strengthen the Strategy on deinstitutionalization aimed at replacing large social institutions with community-based settings and ensure that any decision to isolate, place or treat persons with mental, intellectual and psychosocial disabilities is made after a thorough medical assessment, that any restrictions are legal, necessary and proportionate, for the purpose of protecting the individual in question from serious harm or preventing injury to others; that sterilization of persons with disabilities only takes place with the free and informed consent of the persons concerned; and that guarantees of an effective remedy are included and any abuse is effectively investigated and criminal liability is imposed in appropriate cases; and**

**(d) Ensure that it does not discriminate against persons with mental, intellectual or psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable and objective relationship to their ability to vote, taking into account article 25 of the Covenant.**

**Gender discrimination**

23. The Committee is concerned that women are underrepresented in decision-making positions in the public sector, particularly in Government ministries and Parliament. The Committee regrets that patriarchal stereotyped attitudes still prevail in the State party with respect to the position of women in society, and notes with concern discriminatory comments against women by political figures (arts. 2, 3, 25 and 26).

**24. The State party should adopt concrete measures to increase the representation of women in decision-making positions in the public sector, and, where necessary, through appropriate temporary special measures to give effect to the provisions of the Covenant. The State party should take the necessary practical steps, including awareness-raising campaigns, to eradicate negative stereotypes regarding the position of women in society in law and in practice, and review legislation and constitutional provisions which may reinforce such stereotypes.**

**Domestic violence**

25. Notwithstanding the positive measures taken by the State party, including the increase in the number of available beds in shelters, the Committee is concerned about reports that domestic violence continues to be a persistent and under-reported problem, that the police response to cases of domestic violence and the mechanisms to protect and support victims are inadequate, and that access to shelters remains insufficient. It notes with concern that the Criminal Code does not fully protect women victims of domestic violence, since article 212/A(2), which criminalizes violent behaviours that do not reach the level of battery, introduces the following requirements: that the victim file a private complaint; that the victim and the abuser were or are in cohabitation or have joint children; and that at least two separate instances of domestic violence occurred within a short timeframe. The Committee also notes that article 212/A does not explicitly refer to sexual offences as a form of domestic violence (arts. 2, 3, 7 and 26).

**26. The State party should ensure that cases of domestic violence are reported, recorded and thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective**

**remedies and means of protection, including an adequate number of shelters available in all parts of the country. It should strengthen the legal framework, including the Criminal Code, for the protection of women against domestic and sexual violence and consider ratifying the Istanbul Convention. Furthermore, it should ensure that police officers, prosecutors and judges receive appropriate training to effectively deal with cases of domestic violence.**

#### **Human trafficking**

27. While noting the various programmes implemented by the State party to combat trafficking in human beings and to support victims of trafficking, the Committee is concerned at allegations of the persistence in the State party of this phenomenon, particularly in the transit zones (art. 8).

28. **The State party should:**

**(a) Continue its efforts to raise awareness and to combat trafficking in persons, including at the regional level, in the transit zones and in cooperation with neighbouring countries;**

**(b) Compile statistical data on victims of trafficking, which should be disaggregated, by gender, age and country of origin or destination as well as the type of trafficking involved with a view to addressing the scope of this phenomenon and assessing the effectiveness of the current programmes and strategies;**

**(c) Ensure that all individuals responsible for trafficking in persons are prosecuted and receive punishment commensurate with the crimes committed; and**

**(d) Ensure that victims receive adequate reparation and compensation.**

#### **Juvenile justice**

29. The Committee is concerned that the State party has lowered the age of criminal responsibility from 14 to 12 years for heinous crimes. It is also concerned about the high number of minors in conflict with the law subject to deprivation of liberty (arts. 9, 14 and 24).

30. **The State party should ensure that its juvenile criminal justice system upholds the rights set forth in the Covenant and other international instruments and, as a first step, raise the age of criminal responsibility from 12 years back up to 14 years for all crimes. The State party should ensure that minors in conflict with the law are treated in a way that promotes their integration into society and the principle that detention of children should be used only as a measure of last resort and for the shortest possible time.**

#### **Right to a fair trial and access to a lawyer**

31. The Committee is concerned about the reported discretion that authorities exercise over who to appoint as state-funded lawyers for detainees, the practice of appointing the same lawyers for the majority of cases and information suggesting the lower quality of legal representation for indigent defendants. It notes the information provided by the State party, according to which the new Criminal Procedure Code provides for higher standards of notification to lawyers representing arrested persons, but remains concerned about the reported failures in this regard under existing law, including a very short notification time to lawyers before court hearings (arts. 9 and 14).

32. **The State party should ensure that all persons deprived of their liberty are guaranteed all fundamental legal safeguards from the very outset of detention. The State party should ensure that state-appointed defence lawyers provide adequate and effective legal representation.**

### **Criminalization of homelessness**

33. Notwithstanding the Constitutional Court decision of 2012 (38/2012(XI.14)) which stated that punishment of homeless people for living in a public area violates the right to human dignity, the Committee is concerned about state and local legislation, based on the Fourth Amendment to the Fundamental Law, which designates many public areas as out-of-bounds for “sleeping rough” and effectively punishes homelessness. The Committee notes the explanation given by the State party that in practice no fines are applied to homeless people, but regrets that fines and incarceration are still available in law and therefore could be applied at any time (arts. 2, 9, 17 and 26).

34. **The State party should engage with state and local authorities to abolish the laws and policies effectively criminalizing homelessness at state and local levels. It should ensure close cooperation among all relevant stakeholders, including social, health, law enforcement and justice professionals at all levels, to intensify efforts to find solutions for the homeless, in accordance with human rights standards.**

### **Prohibition of torture and cruel, inhuman or degrading treatment and of the excessive use of force**

35. The Committee is concerned about allegations regarding the excessive use of force by law enforcement officials at the time of apprehension and during interrogations, including ill-treatment and torture, and about the very low number of prosecutions and convictions in such cases. It recalls its previous concluding observations (CCPR/C/HUN/CO/5, para. 14) and regrets the continuing requirement to have law enforcement personnel be present during medical examinations of inmates, unless formally requested otherwise by the staff or inmate (arts. 7 and 10).

36. **The State party should:**

(a) **Ensure that prompt, impartial, thorough and effective investigations are carried out into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officers, and that perpetrators are prosecuted and punished with appropriate sanctions;**

(b) **Take appropriate measures to strengthen the Independent Police Complaints Board, to expand its investigation powers and to ensure its independence in carrying out investigations of alleged misconduct by police officers;**

(c) **Consider establishing an independent medical examination body mandated to examine alleged victims of torture and guarantee respect for human dignity during the conduct of medical examinations; and**

(d) **Ensure that all training programmes for law enforcement officials include instruction on investigation and prevention of torture and ill-treatment, and incorporate the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).**

### **Right to liberty and security of person and to humane treatment of persons deprived of their liberty**

37. While welcoming the progress made by the State party in addressing excessive pretrial detention, the **Committee** is concerned about reports regarding the absence of a defined legal limit on the length of pretrial detention and about excessive use of pretrial detention during the investigation phase, including for juveniles (arts. 9, 14 and 24).

38. **The State party should:**

(a) **Continue reducing the length of pretrial detention, make use of non-custodial alternatives and revise its legislation accordingly;**

(b) **Periodically review the length of pretrial detention on an individualized basis to determine whether it is reasonable and necessary, and guarantee the right to a trial within a reasonable time; and**

**(c) Ensure that detention of juveniles is resorted to, if at all, only as a measure of last resort and for the shortest possible time.**

#### **Life imprisonment without parole**

39. The Committee is concerned about the highly restrictive legal conditions for granting clemency to prisoners sentenced to life without parole, which requires that an inmate may only be considered for clemency after 40 years of incarceration, and provides that the President's final decision need not be justified (arts. 7 and 10).

**40. The State party should ensure that the procedure established in law for clemency in case of life prisoners without parole allows for a meaningful opportunity for release based on a timely, proper and non-arbitrary consideration.**

#### **Persons deprived of their liberty**

41. While acknowledging the State party's efforts to reduce overcrowding in prisons, including by the construction of new facilities and use of non-custodial alternative measures, the Committee is concerned about the persistence of this problem and regrets the failure of the State party to make greater use of non-custodial alternative measures to incarceration. It is also concerned about poor conditions of detention (arts. 7 and 10).

**42. The State party should strengthen its efforts to eliminate overcrowding in places of detention, including by increasing resort to non-custodial alternative measures to incarceration (see paragraph 38). It should also improve conditions of detention, and redouble efforts to guarantee the right of detainees to be treated with dignity.**

#### **Government surveillance and interception of communications**

43. The Committee is concerned that the State party's legal framework on secret surveillance for national security purposes (section 7/E(3) surveillance) (a) allows for mass interception of communications and (b) contains insufficient safeguards against arbitrary interference with the right to privacy. It is also concerned at the lack of provisions to ensure (c) effective remedies in case of abuses; and (d) notification to the person concerned as soon as possible, without endangering the purpose of the restriction, after the termination of the surveillance measure (arts. 2, 17, 19 and 26).

**44. The State party should (a) increase the transparency of the powers of and safeguards on the legal framework on secret surveillance for national security purposes (section 7/E(3) surveillance), by considering making its policy guidelines and decisions public, in full or in part, subject to national security considerations and the privacy interests of individuals concerned by those decisions. It should ensure that: (b) all laws and policies regulating the secret surveillance are in full conformity with its obligations under the Covenant, in particular article 17, including the principles of legality, proportionality and necessity; (c) effective and independent oversight mechanisms for secret surveillance are put in place; and (d) affected persons have proper access to effective remedies in cases of abuse.**

#### **Holding migrants in transit zones and immigration detention**

45. The Committee is concerned about the negative impact of the major legislative reforms on migration recently adopted by the State party in the last years. While noting the position of the State party that as a sovereign state it may curb illegal migration to its territory, the Committee is concerned that the national law adopted in March 2017, which allows for the automatic removal to transit zones of all asylum applicants for the duration of their asylum process, except unaccompanied children identified as below the age of fourteen, does not meet the legal standards under the Covenant as a result of (a) the lengthy and indefinite period of confinement allowed; (b) the absence of any legal requirement to promptly examine the specific conditions of each affected individual; and (c) the lack of procedural safeguards to meaningfully challenge removal to the transit zones. The Committee is particularly concerned about reports of the extensive use of automatic immigration detention in holding facilities inside Hungary, and is concerned that restrictions on personal liberty have been used as a general deterrent against unlawful entry rather than in response to an individualized



determination of risk. In addition, the Committee is concerned about allegations of poor conditions in some holding facilities (arts. 2, 7, 9, 10, 13 and 24).

46. **The State party should bring its legislation and practices relating to the treatment of migrants and asylum-seekers into compliance with the Covenant, taking into account, inter alia, the Committee's general comment No. 35 (2014) on liberty and security of person. It should also:**

(a) **Refrain from automatically removing all asylum applicants to the transit zones, thereby restricting their liberty, and ensure an individual assessment of the need to transfer them, on a case-by-case basis;**

(b) **Significantly reduce the period of initial mandatory immigration detention and ensure that any detention beyond that initial period is justified as reasonable, necessary and proportionate in the light of the individual's circumstances and is subject to periodic judicial review;**

(c) **Expand the use of alternatives to detention for asylum seekers;**

(d) **Legally limit the overall duration of immigration detention;**

(e) **Provide for a meaningful right to appeal against detention and other movement restrictions;**

(f) **Ensure that children and unaccompanied minors are not detained, except as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests as a primary consideration with regard to the duration and conditions of detention and their special need for care; and**

(g) **Improve the conditions in the transit zones and ensure that migrants are held in appropriate, sanitary, non-punitive facilities and that immigration detention does not take place in prisons.**

#### **Non-refoulement and excessive use of force**

47. While noting the information provided by the State party on the applicable standards and the safeguards against non-refoulement, the Committee is concerned that the State party's legal framework does not afford full protection against non-refoulement. It notes with concern (a) the push-back law, which was first introduced in June 2016, enabling summary expulsion by the police of anyone who crosses the border irregularly and was detained on Hungarian territory within 8 kilometres of the border, which was subsequently extended to the entire territory of the State party; and (b) decree 191/2015 designating Serbia as a "safe third country" allowing for push-backs at Hungary's border with Serbia. The Committee notes with concern reports that push-backs have been applied indiscriminately and that individuals subjected to this measure have very limited opportunity to submit an asylum application or right to appeal. It also notes with concern reports of collective and violent expulsions, including allegations of heavy beatings, attacks by police dogs and shooting with rubber bullets, resulting in severe injuries and, at least in one case, in the loss of life of an asylum seeker (arts. 2, 6, 7, 9 and 13).

48. **The State party should ensure that the non-refoulement principle is secured in law and strictly adhered to in practice, and that all asylum seekers, regardless of their mode of arrival into Hungary, have access to fair and efficient refugee status determination procedures and effective protection against non-refoulement. In particular, it should:**

(a) **Repeal the push-back law established in June 2016 and the amendments thereto, and legally ensure that the removal of an individual must always be consistent with the State party's non-refoulement obligations;**

(b) **Consider revising the decree 191/2015 and develop procedural safeguards against refoulement, including the possibility of review of asylum decisions by an independent judicial body providing effective remedies;**

(c) **Refrain from collective expulsion of aliens and ensure an objective, individualized assessment of the level of protection available in “safe third countries”; and**

(d) **Ensure that force or physical restraint is not applied against migrants, except under strict conditions of necessity and proportionality, and ensure that all allegations of use of force against them are promptly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are offered reparation.**

#### **Child asylum seekers and unaccompanied minors**

49. The Committee is concerned about reports that the age assessment of child asylum seekers and unaccompanied minors conducted in the transit zones is inadequate, relies heavily on visual examination by an expert and is inaccurate, and about reports alleging lack of adequate access by them to education, social and psychological services and legal aid (art. 24).

50. **The State party should ensure that in cases raising a reasonable doubt about the age of the person concerned, age assessment procedures are conducted only by experts in that field in view of the best interests of the child. The State party should also ensure that child asylum seekers, in particular unaccompanied children, have access to adequate education, social and psychological services and legal aid, and are provided with a legal representative and/or guardian without delay.**

#### **Freedom of thought, opinion and association in high education**

51. The Committee notes with concern the amendment introduced in 2017 to the Act of National Higher Education (Act CCIV of 2011), which imposes disproportionate restrictions on the operation of foreign-accredited universities. While the Committee notes the explanation given by the State party delegation that this legislation applies to all accredited universities in its territory, the Committee notes the lack of sufficient justification for the imposition of such constraints on freedom of thought, expression and association, as well as academic freedom. The Committee is concerned that the constraints particularly affect the Central European University (CEU) because of its links to Mr. George Soros (arts. 18, 19, 21, 22 and 26).

52. **The State party should revise the recent amendments introduced to the Act of National Higher Education (Act CCIV of 2011) to ensure that any restrictions imposed on the operation of foreign-accredited universities are strictly necessary and proportionate, consistent with the requirements of, inter alia, articles 19(3), 21 and 22(2) of the Covenant, and that they do not unreasonably or disproportionately target the Central European University.**

#### **Foreign Funding of NGOs**

53. The Committee is concerned about unreasonable, burdensome and restrictive requirements imposed on some NGOs receiving foreign funding by the Act on the Transparency of Organisations Supported from Abroad, including requiring certain NGOs to register as a ‘foreign-supported organization’ and to publicly identify their foreign supporters (Act LXXVI of 2017). Despite the information provided by the State party delegation claiming that the law aims to ensure transparency regarding NGO funding sources, the Committee notes the lack of sufficient justification for the imposition of these requirements, which appear to be part of an attempt to discredit certain NGOs, including NGOs dedicated to the protection of human rights in Hungary (arts. 19, 21, 22 and 26).

54. **The State party should revise the Act on the Transparency of Organisations Supported from Abroad with a view to bringing it in line with the State party’s obligations under the Covenant, particularly articles 19, 21, 22 and 26, and take into account the opinion of the European Commission for Democracy through Law (Venice Commission) adopted in 2017 in this regard.**

### “Stop-Soros” Package

55. The Committee notes with concern the recently introduced package of three draft laws before the Parliament, also known as “Stop-Soros Package” (T/19776, T/19775, T/19774), which, if adopted, will impose serious restrictions on the operations of civil society organizations and on critics of the State party’s immigration policy. The Committee is concerned that by alluding to the “survival of the nation” and protection of citizens and culture, and by linking the work of NGOs to an alleged international conspiracy, the package bill would stigmatize NGOs and curb their ability to carry out their important activities in support of human rights, and in particular, the rights of refugees, asylum seekers and migrants. It is further concerned that imposing restrictions on foreign funding directed to NGOs may be used to apply illegitimate pressure on them and to unjustifiably interfere with their activities. The Committee is particularly concerned about the following proposals contained in the bill package: (a) imposing significant additional reporting requirements and financial burdens on NGOs designated as an “organization supporting migration”; (b) imposing a 25% duty on foreign funding of NGOs working on the protection of the rights of refugees, asylum seekers and migrants; and (c) imposing restraining orders banning individuals from an 8 kilometre zone from the borders, or third-country nationals from the entire territory of the country, based on claimed national security interests and danger to the public interest (arts. 19, 22 and 25).

**56. The State party should reject the draft laws, known as “Stop-Soros Package”, introduced before the Parliament on 13 February 2018, and ensure that all legislation addressing NGOs is fully consistent with its international obligations under the Covenant, reflects their important role in a democratic society and is designed to facilitate, not undermine, their operations.**

### Media Freedom

57. The Committee is concerned at the State party’s media laws and practices that restrict freedom of opinion and expression. It is concerned that following successive changes in law, the current legislative framework does not fully ensure an uncensored and unhindered press. It notes with concern that the Media Council and the National Media and Infocommunications Authority lack sufficient independence to perform their functions and have overbroad regulatory and sanctioning powers (art. 17, 18 and 19).

**58. The State party should revise its laws and practice with a view to guaranteeing the full enjoyment of freedom of expression by everyone in practice, including by ensuring the existence of a truly independent media and media-regulating bodies, and enabling an environment for their operation free from undue governmental influence or interference. The State party should also ensure that any restrictions on the exercise of freedom of expression comply with the strict requirements of article 19(3) of the Covenant.**

## D. Dissemination and follow-up

59. The State party should widely disseminate the Covenant, its two Optional Protocols, its sixth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public.

60. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party is requested to provide, by 6 April 2020, information on the implementation of the recommendations made by the Committee in paragraphs 46 (Holding migrants in transit zones and immigration detention), 48 (Non-refoulement and excessive use of force) and 56 (“Stop-Soros” package) above.

61. The Committee requests the State party to submit its next periodic report by 6 April 2023. Given that the State party has accepted the simplified reporting procedure, the

Committee will transmit to it a list of issues prior to the submission of the report in due course. The State party's replies to that list will constitute its seventh periodic report. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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