



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined seventh and eighth periodic reports of Hungary at the Committee's fifty-fourth session, held in February 2013. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/HUN/CO/7-8). You may recall that in the concluding observations, the Committee requested Hungary to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 21, paragraph 31 and paragraph 33 of the concluding observations.

The Committee welcomes the follow-up report received on time in February 2015 (CEDAW/C/HUN/CO/7-8/Add.1) under the CEDAW follow-up procedure. At its sixty-first session, held in July 2015 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 21** of the concluding observations that the State party “adopt a law on domestic violence and criminalize different types of violence against women, including economic and psychological violence and stalking”: The State party indicated that a working committee was set up with the main objective of developing the criminal law on domestic violence. It added that the crime of domestic violence was inserted in Act C of the 2012 the Criminal Code which came into force on 1 July 2013. Moreover, the new law will criminalize conducts that were not included in the former Criminal Code. Accordingly, the new Criminal Code envisages sanctions for violent behaviours that do not reach the level of physical violence, yet severely affect the victim's human dignity, including acts intended to cause economic harm. The Committee welcomes the establishment of a committee to develop the criminal law on domestic violence, as well as the criminalization of a number of acts of domestic violence, including economic violence in the new Criminal Code. However, the Committee considers that the State party failed to adopt the said law and to criminalize psychological violence and stalking. It considers that the recommendation **has been partially implemented**.

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Regarding the recommendation that the State party “amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation and extend the duration of restraining orders”: The State party mentioned that Act LXXII of 2009 on preventive restraining orders applies to cases of violence between relatives. According to Section 16 (2) of the law, courts may order a preventive injunction to stay away for 60 days (instead of 30 days), a provision which has been effective since 15 March 2014. The State party also stated that, under Act XIX of 1998 on Criminal Proceedings, a restraining order can be issued also after the start of criminal proceedings. Since 2009, the court may issue a restraining order for ten to sixty days and can re-issue it repeatedly thereafter if necessary. An offender who wilfully violates the rules of restraining may be fined or remanded in pre-trial detention. The Committee considers that the State party took some steps to implement the recommendation by extending the duration of restraining orders. However, it considers that the State party failed to amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation. The Committee considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “amend its Criminal Code to ensure that rape is defined on the basis of the lack of voluntary consent of the victim”: The State party indicated that the new Criminal Code defines rape and sexual assault as an act of sexual coercion (Section 196) which encompasses all forms of constraints and is carried out without the voluntary and free consent of the victim. The Committee considers that the State party amended its Criminal Code to ensure that rape is defined on the basis of coercion and the lack of voluntary consent of the victim. It considers that the recommendation **has been implemented**.

The Committee recommends that, in relation to paragraph 21 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Expeditiously adopt the law on domestic violence and criminalize different types of violence against women, including psychological violence and stalking; and
- 2) Amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation.

Regarding the recommendation made in **paragraph 31** of the concluding observations that the State party “provide adequate access to family planning services and affordable contraceptives, including emergency contraception, to all women including women with disabilities, Roma women, women living with HIV/AIDS and migrant and refugee women, i.e., by covering the costs of range of modern contraceptives under the public health insurance and eliminating the prescription requirement for emergency contraception”: The State party indicated that contraceptives are available at affordable prices. It added that legal regulations enable the National Health Insurance Fund to support, on a case-by-case basis, the purchase of contraceptives by women living in extraordinary conditions upon request. It further mentioned that emergency contraception should be considered as a last resort solution and should remain under close medical control. The Committee considers that the State party failed to take any measures to provide adequate access to family planning services and affordable contraceptives, including emergency contraception, to all women including women with disabilities, Roma women, women living with HIV/AIDS and migrant and refugee women, i.e., by

covering the costs of range of modern contraceptives under the public health insurance. The Committee further considers that the State party failed to eliminate the prescription requirement for emergency contraception. It considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “ensure access to safe abortion without subjecting women to mandatory counselling and a medically unnecessary waiting period as recommended by the World Health Organization”: The State party mentioned that the three-day grace period between the decision-making and the intervention, as well as the mandatory consultation cannot be deemed as unreasonable, since their aim is to ensure that the decision, which has irreversible consequences, is well grounded. However, it specified that these provisions on mandatory consultation and waiting period only apply to interventions requested by women in a severe emergency situation (not health-related). In cases of abortion due to the health condition of the pregnant woman or the foetus, a separate request on the basis of a specialist opinion is not required to carry out the intervention. The Committee considers that the State party failed to ensure access to safe abortion in all cases, without subjecting women to mandatory counselling and a medically unnecessary waiting period as recommended by the World Health Organization. It considers that the recommendation **has not been implemented**.

The Committee recommends that, in relation to paragraph 31 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Provide adequate access to family planning services and affordable contraceptives, including emergency contraception, to all women including women with disabilities, Roma women, women living with HIV/AIDS and migrant and refugee women, i.e., by covering the costs of range of modern contraceptives under the public health insurance and eliminating the prescription requirement for emergency contraception; and
- 2) Ensure access to safe abortion in all cases, without subjecting women to mandatory counselling and a medically unnecessary waiting period as recommended by the World Health Organization.

Regarding the recommendation made in **paragraph 33** of the concluding observations that the State party “eliminate forced sterilization of women with disabilities by training health professionals, raising their awareness toward their own prejudices, and repeal or amend Act CLIV of 1997 which enables doctors to perform forced sterilizations on very wide grounds, contrary to international health standards on free and informed consent of persons with disabilities”: The State party mentioned that, according to Act CLIV of 1997 on health, multiple safeguards limit the performance of sterilization on persons with disabilities. Indeed, if an intervention is performed to sterilize a person with limited capacity or an incapable person, the information on other possible methods of contraception, the nature of the surgical intervention and its potential risks and consequences, as well as on the chances of restoring the conceptive ability shall be given in a way that is understandable by the affected person. Moreover, the approval of the guardianship authority is required for performing such intervention in order to ensure that the request of the affected person is in accordance with his/her will and he/she is aware of the consequences of his/her decision. Further, an intervention to sterilize a person with limited capacity under Section 187/B of the Health Act may only be carried out on the basis of a final court decision, after hearing the affected person, the legal representative

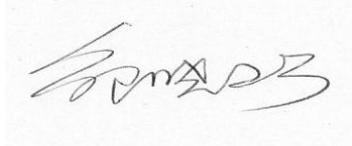
and/or the guardianship authority. However, according to information received by the Committee, coercive sterilizations still happen in the State party, particularly affecting Roma women, although it is not a common practice anymore. The Committee considers that the State party failed to take any effective steps to eliminate the possibility of forced sterilization of women with disabilities by training health professionals, raising their awareness toward their own prejudices, and to repeal or amend Act CLIV of 1997 which enables doctors to perform forced sterilizations on very wide grounds, contrary to international health standards on free and informed consent of persons with disabilities. The Committee considers that the recommendation **has not been implemented**.

The Committee recommends that, in relation to paragraph 33 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to eliminate forced sterilization of women with disabilities by training health professionals, raising their awareness toward their own prejudices, and repeal or amend Act CLIV of 1997 which enables doctors to perform forced sterilizations on very wide grounds, contrary to international health standards on free and informed consent of persons with disabilities.

The Committee looks forward to pursuing its constructive dialogue with the authorities of Hungary on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Xiaoqiao Zou  
Rapporteur on follow-up  
Committee on the Elimination of Discrimination against Women