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Mr. Ambassador,

In my capacity as Rapporteur for Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, I refer to the examination of the fourth periodic report of Hungary (CAT/C/55/Add.10) by this Committee at its 37th session on 15 and 16 November 2006. At the end of the session, the Committee's Conclusions and Recommendations (CAT/C/HUN/CO/4) were adopted and transmitted to your Permanent Mission. In paragraph 24 of those Conclusions and Recommendations, the Committee asked for further information regarding the matters identified by the Committee in paragraphs 7, 9, 12 and 17 (see extracts annexed), pursuant to its rules of procedure.

I am writing to thank you for your Government's communication of 15 November 2007 (CAT/C/HUN/CO/4/Add.1) which contained responses concerning these issues. The Committee would be grateful for clarification as to the following points, where sufficient information has not yet been provided to enable it to complete its analysis of the progress made regarding implementation of aspects of the Convention.

In paragraph 7 of the Conclusions and Recommendations, the Committee recommended the State party should take appropriate measures to ensure its pre-trial detention policy meets international standards, in particular to reduce the period of pre-trial detention which often puts detainees at risk of abuse, to ensure that pre-trial detention takes place in prison establishments intended for that purpose, and to ensure that children are kept separately from adults.

While the Committee appreciates the information received on the provisions of the criminal procedure act governing pre-trial detention, we continue to be concerned that the length of both the initial pre-trial detention (up to 72 hours) and pre-trial detention at a remand prison (up to 3 years) are excessive. Please provide us with information on specific practical steps taken to reduce the length of pre-trial detention, as recommended by the Committee. Your reply cites a 3-month review of extended pre-trial detention. Would you clarify how often the review has been conducted and with what results? Please provide relevant data on complaints lodged by persons in pre-trial detention, including any appeals to the Independent Police Complaints Commission.

While the Committee welcomes information provided on the relevant articles of the Code of Criminal Procedure requiring that pre-trial detention take place at remand prisons, we re-emphasize our concern about ongoing pre-trial detention on police premises (up to 60 days). Please clarify what conditions, circumstances and kinds of cases would justify an order from the public prosecutor to detain the suspect in a police cell, despite the provision in Article 135 that requires otherwise. Please clarify the conditions and circumstances that would justify an extension of the initial 30-day period of detention under Article 135(2) of the Code of Criminal Procedure. Also, please provide the Committee with information on efforts made to limit pre-trial detention in police stations to the greatest extent possible, as recommended in the Conclusions and Recommendations.

The Committee notes with interest the legislation mentioned by the State party regarding the separation of juveniles and adults in pre-trial detention. We would appreciate receiving further information on the practical measures taken to ensure that this legislation is adequately enforced. How many juveniles have been held in

pre-trial detention since 2006? How many have benefited from the provisions found in the legislation mentioned in paragraph 12 of your response?

In paragraph 9 of its Conclusions and Recommendations, the Committee expressed concern at the detention policy applied to asylum-seekers and non-citizens, including that they often face lengthy periods of detention (up to 12 months). While we note that the National Assembly has adopted new laws that regulate asylum seekers and other non-citizens, we would appreciate receiving information on the steps taken to ensure that all detention of asylum-seekers and other non-citizens takes place only in exceptional circumstances or as a last resort, is as short as possible and, when it does take place, is in compliance with the new guidelines. In that regard, the Committee would appreciate receiving information on the number of asylum seekers and non-citizens that have been detained since the enactment of the new law and the average length of detention. Please also provide the Committee with information on the number of complaints submitted by such detainees against orders of detention under immigration laws, as mentioned in paragraph 17 of your response. How do the new regulations affect the so-called "alien policing procedure" mentioned in paragraph 9? In this regard, please provide the Committee with information on the measures taken to ensure that asylum-seekers detained in alien policing jails are not subjected to torture or ill-treatment. We would also appreciate receiving information on the complaints mechanism in place for detained asylum-seekers for alleged breaches of Sections 60-61 (para.17 of your response)—does it include complaints of torture or ill-treatment? Please include information on the number of complaints of torture or ill-treatment submitted by persons detained by Border Guard services, --by age, gender, ethnicity, and place of detention.

Concerning the recommendation in paragraph 12 regarding our request for statistical data, disaggregated by age, gender **and/or** ethnicity, we regret that the State party has been unable to supply such data. We reiterate this request, reminding the State party that the next periodic report, due by December 2010, should also include statistical information. While taking note of the response of the State party that the "special data" such as racial origin and affiliation to a national or ethnic minority is protected under the right to data privacy, the Committee considers that the exceptions to the data privacy requirements found in Section 2 of Act No 63 of 1992 allows the Government to provide the disaggregated statistical information requested. The Committee reiterates that the State party should take measures to ensure that its competent authorities, as well as the Committee, are fully apprised of these details when assessing the State party's compliance with its obligations under the Convention.

Finally, in regard to compensation and rehabilitation cited in paragraph 17 of Conclusions and Recommendations, the Committee notes with interest that under the Act on Assistance to Victims (Act No 135 of 2005) victims of both bodily and mental harm are entitled to pecuniary compensation as well as legal advice, administration and rehabilitation programmes, however we would appreciate receiving detailed information on the measures taken to ensure that this legislation is effectively implemented for all victims. Please provide information on rehabilitation programmes available to victims, including how many victims have been through these rehabilitation programmes, (medical or psychological), and how many have received compensation and in what form. Information on any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes should be included in the next periodic report.

Upon receipt of this additional information, the Committee will be able to assess how the Government's response has comported with the Committee's recommendations and whether further information may be required. The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Hungary on the implementation of the Convention.

Accept, Mr. Ambassador, the assurances of my highest consideration.



Felice Gaer

Rapporteur for Follow-up on Conclusions and Recommendations
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Conclusions and recommendations of the Committee against Torture
(Extracts *for follow-up*)

HUNGARY

(...)

C. Principal subjects concerns and recommendations

(..)

Pre-trial detention

7. The Committee expresses its concern at the length of the initial pre-trial detention phase (up to 72 hours), at ongoing pre-trial detention on police premises and the high risk of illtreatment which it entails and greatly regrets that pre-trial detention of up to three years is provided for under the Criminal Procedure Act. Furthermore, the Committee is concerned that pre-trial detainees under and over 18 years are accommodated in the same cell in the course of the procedure and notes that the need for separation of children and adults is included in the Draft Penitentiary Code. (arts. 2, 11 and 16)

The State party should take appropriate measures to ensure that its pre-trial detention policy meets international standards, including by reducing pre-trial detention on police premises, further reducing the period of pre-trial detention and using the alternative measures outlined in the Code of Criminal Proceedings under the chapter "Coercive Measures" in cases where the accused does not pose a threat to society. Furthermore, the State party should take the necessary measures to ensure that children in pre-trial detention are kept separately from adults, and adopt the Draft Penitentiary Code.

(...)

Detention of asylum seekers and non-citizens

9. The Committee is concerned at the detention policy applied to asylum-seekers and other non-citizens, including reports that they often face lengthy periods of detention, including in the context of the so-called "alien policing procedure", with detention for up to 12 months in alien policing jails maintained by the Border Guard service (arts. 2, 11 and 16)

(...)

Data collection

12. The Committee regrets the fact that for certain areas covered by the Convention, the State party was unable to supply statistics, or appropriately disaggregate those supplied (e.g. by age, gender and/or ethnic group). During the current dialogue, this occurred with

respect to, for example, the ethnicity of inmates and detainees, particularly the Roma (art. 11)

The State party should take such measures as may be necessary to ensure that its competent authorities, as well as the Committee, are fully apprised of these details when assessing the State party's compliance with its obligations under the Convention.

(...)

Compensation and rehabilitation

17. While noting that the Act on Assistance to Victims contains provisions regarding the right to compensation for victims of crimes and supporting services available for such victims, the Committee regrets the lack of a specific programme to safeguard the rights of victims of torture and ill-treatment. The Committee also regrets the lack of available information regarding the number of victims of torture and ill-treatment who may have received compensation and the amounts awarded in such cases as well as the lack of information about other forms of assistance, including medical or psychosocial rehabilitation, provided to these victims (art. 14).

The State party should strengthen its efforts in respect of compensation, redress and rehabilitation in order to provide victims with redress and fair and adequate compensation, including the means for as full rehabilitation as possible. The State party should develop a specific programme of assistance in respect of victims of torture and ill-treatment. Furthermore, the State party should provide in its next periodic report information about any reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, as well as the allocation of adequate resources to ensure the effective functioning of such programmes.

(..)

24. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 7, 9, 12 and 17 above.

(...)
