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Committee on the Elimination of Discrimination against Women (CEDAW)

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Human Rights Watch Submission Review of Hungary's Compliance with CEDAW Special attention to articles 2(a), 2(b) and 2(e)

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Human Rights Watch submits this intervention in connection with the CEDAW Committee's review of Hungary's periodic report on its compliance with the Convention on the Elimination of All Forms of Discrimination against Women. This submission focuses on human rights violations as a result of violence against women and the lack of protection against such violence by the state. We highlight areas of concern and suggest questions to be posed to the Hungarian government. We hope this is useful for the Committee in the context of its review of Hungary's obligations under articles 2(a), 2(b), and 2(e), and in the context of General Recommendation 19.

Overview

The Act on Restraining Orders Applicable in the Case of Violence between Family Members was adopted in 2009. A civil, not a criminal measure, the act aims to provide immediate protection to certain victims of domestic violence.¹ The law provides that the police can issue a 72 hour preventive and temporary restraining order against an alleged abuser, preventing the subject from entering the home, workplace, educational or health establishment, or place of worship frequented by the victim. The order is subject to review by a civil court within 72 hours and may be extended up to a maximum of 30 days. It is not possible to extend the order beyond 30 days. There are gaps in the law and in its implementation detailed below.

There are not enough shelter places available for women seeking to leave abusive relationships. There has been only one government-funded training for

¹ Act on Restraining Orders Applicable in the Case of Violence between Family Members, 2009 year LXXII law, http://net.iogtar.hu/ir/gen/hiegvy_doc.cgi?docid=A0900072.TV#lbi1param, (accessed February 4, 2013).

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police, prosecutors, and judges on domestic violence since the law came into force. Hungary has not yet signed or ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention).

Temporary Restraining Orders

According to the 2009 Act, temporary preventive restraining orders are available for married women, same sex registered partnerships (not cohabitation), and cohabiting partners. It excludes former-partners, from prior marriages or cohabiting relationships, and unmarried women who do not cohabit with their partners.

There is confusion among police, prosecutors, and courts as to when a temporary preventive restraining order may be issued and the level of evidence needed to issue it. According to article 6 of the 2009 Act, the decision to issue an order lies with the police officer at the scene. No other guidance is given either in the law itself or through other instruments. According to senior police, prosecutors, and judges, it is not necessary for physical violence to have already taken place to issue an order and the victim need not request it. Rather for a police officer to issue an order, and for a court to confirm it, the test is whether there is a risk of violence. But, according to the National Police, the General Prosecutor's Office, social service providers, and national women's rights groups, in practice police officers are often reluctant to issue a temporary preventive restraining order unless the victim explicitly requests it and violence has occurred.

Judges and prosecutors expressed concern at what happens at the conclusion of the 30 day period for which a temporary preventive restraining order is available. A judge may impose a restraining order as part of bail conditions if a criminal prosecution is commenced against a suspect. However, in the absence of criminal proceedings commencing within 30 days of the initial temporary preventive restraining order, a victim of domestic violence may be left without protection.

Questions:

1. Does the government intend to broaden the 2009 Act to include ex-partners, divorced and separated, and women in non-cohabiting relationships as well non-registered but cohabiting same sex couples?
2. How does the Hungarian government ensure that all women, regardless of marital or parental status, can access protection from state bodies against domestic violence?
3. How does the Hungarian government assess the effectiveness of the temporary preventive restraining orders in preventing violence against women?
4. Does the Hungarian government consider the criteria for issuing and confirming temporary preventive restraining orders to be sufficiently clear and precise? If not, does it have plans to provide more clarity to authorities?

Breach of a Temporary Restraining Order

If the subject of a temporary preventive restraining order does not comply with the order, the police are obliged to initiate criminal proceedings against them. Breach of an order is a misdemeanor punishable by a fine of up 150,000 HUF (approximately US\$ 700); failure to pay the fine can result in a prison sentence. The responsibility to notify authorities of any breaches of an order currently lies with the victim. The General Prosecutor's office told Human Rights Watch that there are no statistics on how frequently breaches of orders are prosecuted.

Questions:

1. How are violations of temporary preventive restraining orders monitored?
2. Since the law was introduced, how many people have been convicted of a misdemeanor for breach of a temporary restraining order?
3. Have any of those convicted been imprisoned for failure to pay the fine?

Shelters

In Hungary, according to the National Crisis Management and Information Phone Service, there are 14 state-run or state subsidized "crisis centers" designed for women victims of domestic violence in Hungary, with a total of 92 spaces. CEDAW's General Recommendation 19 says that in order to overcome "family violence" states need to provide "[s]ervices to ensure the safety and security of victims of family violence, including refuges, counseling and rehabilitation programs."² The UN Handbook For Legislation on Violence against Women recommends one shelter or refuge place for every 10,000 inhabitants.³ Furthermore, the explanatory memorandum to the Istanbul Convention recommends safe accommodation in specialized women's shelters, available in every region, with one family place per 10,000 head of population depending on need.⁴ With a total population of around 10 million, Hungary currently falls far short of this standard and would need to establish hundreds of additional spaces to meet it.

Women, including those with children, may stay at the crisis centers for a period of 30 days, with the possibility of extending for a maximum of 60 days. Most of the 14 "centers" are in fact located within larger "public mother's homes" (temporary housing for single mothers with children) or "temporary family homes" (temporary housing for families, including fathers). The location of shelter beds in these facilities compromises security for the women seeking shelter as the addresses for these homes are publicly listed, making it easy for abusers to find victims.

² Convention on the Elimination of All Forms of Discrimination against Women, General Recommendation 19.r.(iii). <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed February 3, 2013).

³ UN Handbook For Legislation on Violence Against Women, 3.6.1. <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> (accessed February 4, 2013).

⁴ Explanatory Report, article 23. <http://www.conventions.coe.int/Treaty/EN/Reports/Html/210.htm> (accessed February 7, 2013).

At the end of 60 days, women with children may apply for a further period of accommodation in a public mother's home or temporary family home. Those without children do not have this possibility and may have to move to homeless shelters, designated primarily for long-term homeless who otherwise live on the streets.

Questions:

1. Does the Hungarian government have plans to increase the number of shelter spaces to meet recommended international standards? If so, what are those plans?
2. What are the security arrangements at crisis centers and what steps are taken to ensure that their location is secure and confidential?
3. Does the Hungarian government have plans to ensure that women victims of violence, who do not have children, can have access to temporary housing for longer than 60 days? If so, what are those plans?

Training for the Police, Prosecutors, and Judges

A one-year project on domestic violence, funded largely by the European Commission, was approved in 2009.⁵ The project focused on the training of trainers and ran throughout 2010. There has been no state-funded training since then, and any training provided has been as a result of funding by non-governmental organizations.

Question:

1. Does the Hungarian government have plans to fund and organize training on domestic violence for police, prosecutors, and judges?

Istanbul Convention

The Hungarian government has yet to sign and ratify the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention).

Question:

1. Does the Hungarian government intend to sign and ratify the Istanbul Convention? If so, when? If not, why not?

⁵ The European Commission supplied 70% of the funding.