



Critical issues as regards the implementation of the UN CEDAW Convention in Hungary

Submitted to the UN CEDAW Committee for consideration
in relation to the examination of the combined seventh and eighth periodic reports of Hungary
2012

CONTEXT AND GENERAL CONCERNS

In its history as a democratic country since 1989, Hungary has been characterized by an inadequate institutional, policy and legal framework to genuinely and effectively advance gender equality. Gender equality has not been placed high on different government agendas to generate real policy changes. There has been insufficient progress towards accomplishing women's human rights norms and standards set by the UN CEDAW Convention as well as the CEDAW Committee, the EU and other international bodies. Most of the recommendations of the CEDAW Committee on the Periodic Reports of Hungary were not fulfilled by either government up to now.

Beyond this continuing failure, the current government, which came into power in 2010, has clearly taken a very conservative approach to gender issues, with the promotion of traditional gender roles and so-called 'family mainstreaming' rather than gender mainstreaming. Consequently, one can often experience the misinterpretation and sometimes misuse of the concepts of gender and gender equality by shifting the frame of policy discussions to traditional gender roles.

Women's rights NGOs have experienced a lack of cooperation, or even communication, by state actors since the current government has been in power.

SPECIFIC ISSUES AND CONCERNS

Articles 2 and 3

The national machinery for gender equality – which had been consistently ill-provided for with sufficient financial and human resources in the last decades – has been eliminated by the current government. The previously called Department for Gender Equality was renamed the Department for Equal Opportunities, its scope has been widened and its staff reduced. On the other hand, the Department of Family Policy plays a driving force in policy issues affecting women as far as women's reproductive rights and work-life balance are concerned. Its main focus is on the role of women in families and in a potential demographic upsurge.

The Council for Gender Equality, a tripartite (state, civil society, experts) consultative body on gender equality issues, where the Hungarian Women's Lobby has always been a core member, has not been convened for more than two years, and the future of this body is uncertain. The Hungarian Women's Lobby was only asked to preview the bill that aimed to renew this Council by including historical Churches as well in 2010. Moreover, the working groups set up by the previous government on different fields of women's rights, with the participation of NGO and independent experts, have been dismantled.

There have been substantial changes as regards to the operation of the Equal Treatment Authority. Its Advisory Board was dissolved in 2011 and the budget of the Authority was cut. Moreover, the president of the Authority is now appointed by the President of Hungary, for a nine year term, based on the prime minister's proposal. It constitutes concerns as regards to the independence of the Authority.

The National Strategy for the Promotion of Gender Equality for 2010-2021 was introduced in January 2010 at the very end of the term of the previous government. Although legally it remained in force, we do not have any public information about its implementation, nor about the implementation of its first action plan for 2010-2011. (We have to note here that a considerable amount of the State periodic report is a mere quotation from the Strategy.) Informal sources of information allow us to assume that the Strategy will be replaced by a new one, but women's rights NGOs have not been consulted in, not even informed about the elaboration process of this document.

The National Development Agency and its implementing bodies, responsible for the planning and programming of the European Structural Funds, the major developmental resources in the new member states of the EU, have made very modest efforts to build gender equality knowledge in their senior and mid-level staff. This knowledge is expected to be available on the part of the beneficiaries of these funds, however, to whom no systematic support is given. According to the civil society members of the Monitoring Committees of the main operational programs, gender equality is receiving less and less attention towards the end of the current programming cycle (2007-2013) in favor of the absorption objectives.

Article 5

Although new media laws and a related Public Service Code have been adopted in 2010 and 2011, they have not paid attention to the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Article 6

There were no official estimates of the actual number of victims trafficked from, to, or through Hungary. It can be assumed, however, that the phenomenon of trafficking for sexual exploitation is especially widespread. Data from Switzerland and the Netherlands are to prove that.

The definition of the crime of trafficking is not in compliance with the international norms. It constitutes difficulty to conduct a criminal procedure under this offence, which leads to the fact that these crimes are treated only as a crime of pandering. Adequate training for professionals as well as services for the victims are not available.

In Hungary, neither the relevant authorities and institutions (the police, the judiciary, child protection system) nor the general public has been sensitive to the problem of child prostitution. The police often press charges against child victims of prostitution with criminal liability for different offences.

There are no state-provided or state funded NGO services for rehabilitating child victims of sex tourism or prostitution. Services and measures aimed at prevention are also lacking. There has been no research and systematic data collection into the issue. The lack of cooperation between the different institutions, the lack of professionals' knowledge and protocols in the fields also constitute a problem.

Children in state care, both girls and boys, and children in poor and undereducated families and in Roma communities' families are at great risk of being victims of child prostitution. It should be acknowledged, however, that the Ministry for Internal Affairs has recently set up a working group on combating human trafficking to which key women's NGOs are invited as regular members. Furthermore, some pioneer leaders at the Budapest Metropolitan Police Headquarters have started to show major interests and to consult women's NGOs on the issues of trafficking.

Article 7

There is only one woman in the Hungarian Government, and the proportion of women in the Parliament is below 9% (having been around the same ratio from the democratic transition).

Article 10

There is no comprehensive state policy on gender equality in the field of education. The new National Core Curriculum adopted in 2012 does not even mention gender equality (and the prohibition of discrimination) among the values of and priorities for public education. Moreover, the new government has removed the recently added references to gender equal and anti-stereotyped education from the law on kindergarten education.

Systematic pre- and/or in-service training on gender equality for professionals in the field of education is not in place.

Article 11

The government aims to increase the labor market participation of the population by the integration of those who are inactive into the sphere of employment. To this end, new, controversial measures have been introduced, most significantly a decreased level of employers' contributions if persons from disadvantaged backgrounds are employed, a new communal work program for the registered and unregistered unemployed, and a restructured social benefits system.

In general, the concept of equal opportunities has been increasingly sidelined. The new incentives for employers cannot be used to help the employment of the Roma especially. The employment of different groups, such as persons with disabilities or parents returning from parental leave, is supported to different degrees, thus creating a competitive situation among those groups under already challenging employment conditions. The communal work program obliges the unemployed for quite a low monthly income (HUF 47 000, appr. 200 USD) to take on any assigned work, regardless of their qualification, under strict conditions, otherwise the payment of all of their social benefits will be stopped. The restructured social benefits system aims to increase the employment of the inactive, a large proportion of whom are (multiply) disadvantaged, by reviewing their eligibility for social benefits, decreasing the value of the benefits and reducing the grounds upon which benefits are granted to only one. While neither specific institutional mechanisms or policies, nor economic conditions that would favor the creation of new workplaces for the disadvantaged have been introduced, their decreased income have resulted in a deterioration of their living conditions.

The decrease in public spending on social benefits has affected women within disadvantaged groups (such as women with disabilities, those who care for a permanently sick child or dependent family member, and Roma women) disproportionately more.

One can experience the reinforcement of traditional gender roles by a differentiated pension rule for women. According to the modification of the Act on Social Security Pension Benefits, as from 1 January 2011, women with 40 years or more service time may retire even if they have not reached the standard retirement age. Periods of time spent raising children may be counted into the 40 years, but years spent in higher education may not, and the total service time shall include – as a rule of thumb – at least 32 years of paid employment. This reform of the pension system may strengthen the social role of women as housewives,

mothers and grandmothers. On parallel, men are excluded from the possibility of acknowledging parental work as service time.

Article 12

The new Constitution (its name: Fundamental Law) includes the protection of the fetus from the moment of conception. Women's reproductive health care services are often limited on the basis of the argument that mothers' right to self-determination is in conflict with the right to life of the fetus. Government officials have participated in anti-abortion events and demonstrations, and the government's communication has been continuously denouncing the authorization of the 'abortion pill' even after the National Pharmaceutical Institute registered the pill on 17 May 2012, in line with respective EU directives. The state secretary in charge announced that it will not be made commercially available and will not be subsidized by the state because there is a professional debate on the health risks and long-term side effects of the pills. Moreover, the government initiated a wide anti-abortion billboard campaign in 2011. Since the campaign was financed from the EU Progress Fund serving to combat discrimination and, among others, to advance gender equality, the government had to stop the campaign after the European Commission had called it to do so.

The recognition of independent midwives as a professional group is still missing, in spite of the entering into force of the government resolution creating the legal framework of homebirth in Hungary as of 1st April 2011. The resolution is very restrictive, excluding most women from giving birth outside of hospitals based on "medical contraindications" and by not providing state funding, homebirth is a luxury service available only for the wealthy. As a result of legal uncertainty, independent midwives get criminalized in any cases of birth complications judged by forensic gynecologist experts of hospital-only expertise and a clear opposition of homebirth itself. The most experienced independent midwife, dr. Ágnes Geréb was taken into pre-trial detention for 2 and a half months after a rapid birth where the infant needed to be brought into hospital in October 2010. Since then she has been kept in home custody. dr. Geréb was sentenced to two years in prison and a 10 year ban on practicing on 10 February 2012, and facing more lawsuits for malpractice. The court refused to hear international experts and laid its verdict solely on Hungarian forensic experts opinions. She is currently waiting on the President's decision on her clemency request.

Article 16

The European Parliament concluded in its resolution of 5 July 2011 on the new Fundamental law: "through the values it enshrines and its unclear wording when defining basic notions such as 'family' and the right to life from the moment of conception, creates the risk of discrimination against certain groups in society, namely ethnic, religious and sexual minorities, single-parent families, people living in civil partnerships and women."

Similarly, the new cardinal law on the protection of families adopted in 2011 defines family as a "relationship between natural persons in an economic and emotional community that is based on a marriage between a woman and a man, or lineal descent, or family-based guardianship".

Violence against women

The legislator has been consistently opposed to either introducing a specific crime on domestic violence or treating domestic violence as aggravating circumstance in all relevant offences. The legislation on so-called preventive restraining does not provide effective, immediate and long term protection to the victims, as it can be issued by the police only for 72 hours and extended by the court for a maximum of 30 days without any prolongation. It also excludes certain relationships (e.g. intimate partners, ex common-law partners) from its scope. Moreover, mediation for domestic violence cases is applied both in the criminal or social schemes.

Courts and child protection authorities – as well as the relevant legal norms – fail to recognize domestic violence in custody and visitation cases, thus forced visitation is a widespread practice in cases of children with abusive parents (mostly fathers).

Although there have been some positive steps as regards the criminal law response to sexual violence, the definition of rape is still not fully based on the lack of consent, and the reference to sexual morale is still present in the new Criminal Code entering into force in July 2013.

As a general concern, criminal procedures for many offences relevant of domestic violence (and sexual violence) still require the victim's active involvement: through requesting private motion by the victim or putting the cases under private accusation.

The Equal Treatment Authority has dealt with very few sexual harassment cases, and when cases get to the courts upon appeal, courts seem to be very under-educated as to the use of indirect evidence in these cases. This leads to requirements that the victims necessarily fail, and the court does not find the harassment proven. Systematic training for law enforcement and judiciary on gender-based violence and gender discrimination in general is missing.

Shelters and services for victims are very few in number and often do not follow the principles of established international norms and promising practices in the field. Moreover, the current government has even cut the number of funded crisis places to half.

The government has still failed to sign the Council of Europe Convention on preventing and combating violence against women and domestic violence.

Multiple discrimination of Roma women and girls

Discrimination against Roma women and girls in various fields of life – such as employment, education and healthcare – and the multiple forms of discrimination they often face are still widely present. The insufficient attention of the government to the situation of Roma women so far points to a need to make the problem of multiple discrimination more visible and to advocate for mainstreaming gender into policies that may affect people of Roma ethnic background especially. The new National Roma Inclusion Strategy of Hungary, a compulsory policy task completed by all European governments in 2011, pays due attention to the specific problem of Roma women but it is unclear how the transformed structure of the gender equality machinery (see above) will be able to deliver the necessary gender policy knowledge to this other important field of equality.

Done in Budapest, June 2012

Contact:

Dr. Enikő Pap, legal expert

Réka Sáfrány, Member of the Board

Hungarian Women's Lobby

www.noierdek.hu

E-mail: noierdek@noierdek.hu