



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**List of issues prior to the submission of the combined fifth and
sixth periodic reports of HUNGARY (CAT/C/HUN/5-6)¹**

**Specific information on the implementation of articles 1 to 16 of the Convention,
including with regard to the Committee's previous recommendations**

Articles 1 and 4

1. With reference to the Committee's previous recommendations, please provide information on any steps taken by the State party to adopt a comprehensive definition of torture which covers all elements of the definition of torture as provided by article 1 of the Convention.²
2. Please provide detailed information on current criminal provisions concerning offences such as attempted acts of torture, instigation or consent of torture, or the order to commit torture by a person in authority, and the exact penalties imposed for any of those offences. Please provide information on the number and nature of the cases, including the geographical location of the offences prosecuted, in which those legal provisions were applied, as well as on the penalties imposed or the reasons for acquittal.

Article 2

3. In light of the Committee's previous concluding observations, please provide information on the steps taken by the State party to further guarantee the rights of detained persons from the very outset of detention, including prompt access to defence counsel, as well as ex officio defence

¹ The present list of issues was adopted by the Committee at its forty-second session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

² CAT/C/HUN/CO/4, para. 6.

counsel, and to an independent medical examination or a doctor of their own choice. Please indicate any restrictions that may be imposed on those rights.³

4. Further to the Committee's previous concluding observations, please provide updated information on the practical steps taken to reduce the length of pre-trial detention. How often has the three-month review of extended pre-trial detention been conducted and what were the results? Please also provide relevant data on complaints lodged by persons in pre-trial detention, including any appeals to the newly established Independent Police Complaints Commission.⁴

5. In its previous concluding observations, the Committee recommended that the State party should take the necessary measures to ensure that children in pre-trial detention were kept separately from adults. Please provide further information on the practical measures taken to certify that the Code of Criminal Procedure, section 119, paragraph 2, is adequately enforced.⁵ How many juveniles have been held in pre-trial detention since 2006? How many have benefited from the provisions found in this Code?

6. Please clarify what conditions, circumstances and types of cases would justify an order from the public prosecutor to detain a suspect in a police cell, despite the provision in section 135 of the Code of Criminal Procedure that requires otherwise. Please also clarify the conditions and circumstances that would justify an extension of the initial 30-day period of detention under section 135, paragraph 2, of the Code of Criminal Procedure. In addition, please provide the Committee with information on efforts made to limit pre-trial detention in police stations to the greatest extent possible, as recommended by the Committee in its previous concluding observations.⁶

7. Pursuant to the Committee's previous concluding observations, please provide information on the steps taken to ensure that 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 legislation enacted by the State party (Acts Nos. 1 and 2 of 2007).⁷ In this respect, please provide information on the number of asylum-seekers and non-citizens that have been detained since the enactment of the new legislation and the average length of such detention. Please also provide the Committee with information on the number of complaints submitted by such detainees against orders of detention under immigration laws. How do the new regulations affect the so-called "alien policing procedure"? Furthermore, 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.

³ Ibid., para. 8.

⁴ Ibid., para. 7, and CAT/C/HUN/CO/4/Add.1, paras. 1-11.

⁵ CAT/C/HUN/CO/4, para. 7.

⁶ Ibid.

⁷ Ibid., para. 9, and CAT/C/HUN/CO/4/Add.1, paras. 13-24.

8. Please provide further information on the complaints mechanism in place for detained asylum-seekers. Does such mechanism 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 the Border Guard service, by age, gender, ethnicity, and place of detention.⁸

Article 3

9. With reference to the previous concluding observations of the Committee, please provide information on any steps taken by the State party to ensure that it complies fully with article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by its competent authorities and guaranteed fair treatment at all stages of the proceedings, including an opportunity for effective, independent and impartial review of decisions on expulsion, return or extradition.⁹ Could you please explain if the State party has taken steps to expand and update its country of origin (COI) information database as well as effective measures to certify that the internal regulation concerning the obligatory use of the COI system is respected?

10. Please inform the Committee of measures taken by the State party to ensure that the right of non-citizens seeking protection to have access to the asylum procedure is fully guaranteed at the border, and that the Border Guard service does not engage in unlawful expulsions of asylum-seekers and other non-citizens to third countries.¹⁰ Please clarify if necessary instructions to respect asylum principles have been given to border guards and the military, in order to ensure that they are fully aware of the rights of persons in need of international protection.

11. Please provide disaggregated data, by age, sex and nationality on:

- (a) The number of asylum requests received and the number of those that have been granted asylum or humanitarian status in 2007, 2008 and 2009, including on the basis of having been victims of torture;
- (b) The number of undocumented migrants arrested in 2007, 2008 and 2009;
- (c) The number of persons expelled or deported, indicating if any of these were rejected asylum-seekers.

Article 5

12. Since the examination of the previous report in 2006, please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result. What is the status and outcome of such proceedings? Which sections of the Hungarian Criminal Code were violated in such cases?

⁸ CAT/C/HUN/CO/4, para. 9.

⁹ Ibid., para. 10.

¹⁰ Ibid.

Article 10

13. With reference to the previous concluding observations of the Committee,¹¹ please provide information on further educational programmes developed by the State party to ensure that law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that offenders will be prosecuted. What measures have been taken to ensure that all relevant personnel receive specific training on how to identify signs of torture and ill-treatment? Please explain if the Istanbul Protocol of 1999 (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) has become an integral part of the training provided to physicians? Furthermore, please indicate if the State party has developed a methodology to assess the effectiveness and impact of training/educational programmes on the reduction of cases of torture, violence and ill-treatment, and, if so, please provide information on the content and implementation of such methodology.

Article 11

14. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate for the period 2006-2009.¹²

15. With reference to article 11 of the Convention, please provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the last periodic report in 2006. Please also indicate the frequency with which these are reviewed. Please describe further steps taken by the State party to ensure effective and independent supervision of detention facilities.

16. Further to a previous recommendation of the Committee, please provide updated information on efforts undertaken by the State party to alleviate the overcrowding of penitentiary institutions, including through the wider application and use of alternative sentencing introduced by the new Act on Criminal Proceedings and the establishment of additional prison facilities as needed.¹³

17. Please provide information on steps taken by the State party to implement the previous recommendations of the Committee in respect of prisoners placed under a special security regime, the so-called "Grade 4 prisoners". Such recommendations included, inter alia, that the State party should review and refine the system of classifying prisoners as Grade 4, with a view to ensuring that this grade is only applied, and retained, in respect of prisoners who genuinely need to be accorded such a status, that it review, without further delay, its policy with regard to the application of means of restraint to prisoners placed under this system and establish a proper appeal procedure relating to

¹¹ Ibid., para. 11.

¹² Ibid., para. 13.

¹³ Ibid.

this special security regime, as well as adequate review mechanisms relating to its determination and duration.¹⁴

18. Pursuant to the Committee's previous concluding observations and with reference to the recommendation on data collection by the independent expert on minority issues following her mission to Hungary in June and July 2006, please inform the Committee of any new developments in respect of the collection and use of disaggregated data, including by ethnic group.¹⁵

Articles 12 and 13

19. Please provide information, including statistics, on the number of complaints of torture and ill-treatment filed in the period 2006-2009 and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual filing the complaint.

20. In its previous concluding observations, the Committee recommended that the State party should establish a prompt, impartial and effective complaints system to undertake investigations into all allegations of torture and ill-treatment committed by law enforcement officials, and to punish the offenders.¹⁶ In this respect, please provide information on the Independent Police Complaints Commission which was created in 2007 and due to begin operating in January 2008, including its mandate and composition. Please also provide information on the content and implementation of the recently introduced 13-point code of ethics covering basic rules of conduct for officers, lawful use of force, discrimination and public trust.

21. The Committee, in its previous concluding observations, expressed its concern at reports emerging of alleged excessive use of force and ill-treatment by the police during the demonstrations in Budapest in September and October 2006.¹⁷ Please provide information on the findings, including the recommendations, of the Special Commission of Experts on the Demonstration, Street Riots and Police Measures, set up by the Prime Minister to investigate the policing of the demonstrations.

22. Pursuant to the previous concluding observations of the Committee, please provide information on the steps taken to effectively implement the Code of Conduct for Police Interrogations since 2003.¹⁸

Article 14

23. Please provide information on the implementation of the Act on Assistance to Victims which contains provisions regarding the right to compensation for victims of crimes and supporting

¹⁴ Ibid., para. 18.

¹⁵ Ibid., para. 12, and A/HRC/4/9/Add. 2, para. 100.

¹⁶ CAT/C/HUN/CO/4, para. 16.

¹⁷ Ibid., para. 14.

¹⁸ Ibid., para. 4(e).

services available for such victims.¹⁹ Furthermore, please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2006. This information should include the number of requests made, the number granted, the amounts ordered, and those actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?²⁰

24. In light of the Committee's previous concluding observations,²¹ please provide 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.

Article 16

25. Further to the Committee's previous concluding observations,²² please provide updated information on efforts taken by the State party to combat discrimination against and ill-treatment of the Roma by law enforcement officials, especially the police, including through the strict application of relevant legislation and regulations providing for sanctions, adequate training and instructions to be given to law enforcement bodies and the sensitization of the judiciary. Please also indicate any steps taken by the State party to strengthen its support to the grant programme for support of police officers of Roma origin and to the Roma Police Officers' Association.²³

26. Please provide information on steps taken by the State party to address the concerns expressed by the Committee about reports of ill-treatment of and discrimination against persons belonging to national minorities and non-citizens by law enforcement officials, especially the police.²⁴ Has the State party devised modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively?

27. Pursuant to the Committee's previous concluding observations, please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking of women and children, and to provide assistance to victims, including sensitization of law enforcement officials in contact with these victims.²⁵ Please also provide data on the number of

¹⁹ Ibid., para. 17.

²⁰ Ibid., para. 4(a).

²¹ Ibid.

²² Ibid., para. 19.

²³ Ibid., para. 4(g).

²⁴ Ibid., para. 20.

²⁵ Ibid., para. 21.

women and girls who have been trafficked to, from and through Hungary since the consideration of the previous report in 2006 as well as on the number of prosecutions and convictions of traffickers. What steps have been taken by the State party to implement the recommendations of the Committee on the Elimination of Discrimination against Women that Hungary should accelerate the formulation of its national strategy to combat trafficking in human beings, ensure the effective implementation, with specified time frames, of all measures taken to combat trafficking and ensure that an effective monitoring system is in place to track progress?²⁶

28. According to information before the Committee against Torture, it has been estimated that nearly one in three women has been subjected to physical violence by their partner. Please provide updated information on the measures, including legislative ones, taken by the State party to combat violence against women, including domestic violence, and to investigate all allegations of ill-treatment and abuse. Please inform the Committee of measures taken to address the concerns expressed by the Committee on the Elimination of Discrimination against Women that the initiative to introduce restraining orders has not been effective in providing protection to women victims of domestic violence and about the lack of a specific law on domestic violence against women.²⁷ Furthermore, please provide information on the measures taken to address the concerns of Committee on the Elimination of Discrimination against Women about the prevalence of violence against Roma women and girls, including harassment and abuse at school.²⁸

Other issues

29. In its previous concluding observations, the Committee welcomed the oral assurances given by the State party's representatives that ratification of the Optional Protocol to the Convention was envisaged shortly. Please inform the Committee of the steps taken by the State party towards the ratification of the Optional Protocol as well as the setting-up or designation of a national mechanism which would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment.²⁹

30. Please provide information on the legislative, administrative and other measures undertaken by the State party to respond to the threat of terrorist acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. In this respect, the Committee would like to recall Security Council resolutions 1456 (2003), 1535 (2004), 1566 (2004), and 1624 (2005) all of which reiterate that States must "ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law". Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons

²⁶ CEDAW/C/HUN/CO/6, para. 23.

²⁷ Ibid., para. 18.

²⁸ Ibid., para. 30.

²⁹ CAT/C/HUN/CO/4, para. 5.

subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of those complaints. Please confirm that there are no secret detention facilities in the State party.

**General information on the national human rights situation,
including new measures and developments relating to the implementation of the Convention**

31. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted, including any relevant jurisprudential decisions.

32. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted, including on any national human rights plans or programmes, and the resources allocated to them, their means, objectives and results.

33. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2006, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.
