

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL

CCPR/C/1/Add.44
6 June 1979

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT

Initial reports of States Parties due in 1977

Addendum

HUNGARY

[28 May 1979]

In closing the consideration of Hungary's Report the Hungarian Government wishes to supply the Human Rights Committee with the following additional information covering the questions put by the Committee during the debate [documents CCPR/C/SR.32 and 33]. 1/

I. The application of Articles 1 to 5 of the Covenant is indicated by document CCPR/C/1/Add.11 as well as by the supplementary information provided below.

II. The independence and impartiality of the judiciary in Hungary is secured by special legal safeguards and a corresponding practice of implementation. The independence of the judiciary is provided for in the first place by the Constitution [Art. 50, para.2, of Act I of 1972 on the Amendment of Act XX of 1949], under which judges shall be independent and subject only to the law.

This basic principle ensures the discharge of judicial functions in accordance with the law and free from any form of undue influence. The independence of judges is further guaranteed by the provisions that professional judges shall be elected by the Presidential Council of the Hungarian People's Republic [Art. 48, para.3, of the Constitution] and that for any act connected with their participation in the administration of justice they shall not be held criminally responsible except with the consent of the Presidential Council of the Hungarian People's Republic [Art. 14, para.2, of Act IV of 1972 on Courts]. This latter safeguard is most explicit in Art. 52, para.2, of the Act on Courts providing that in the acts of judicature judges shall be independent and that, as a guarantee thereof, they shall not be removed from office or be held criminally responsible except in the cases specified by this same Act under reference.

1/ These documents cover the consideration of the initial report of Hungary contained in document CCPR/C/1/Add.11.

The impartiality of the judiciary and the protection of civic rights are guaranteed by the provisions of the Constitution, the Act on Courts and the Code of Criminal Procedure [Act I of 1973] laying down special safeguards. Accordingly, the Constitution provides that, except in cases specified by law, hearings before the courts shall be public and that persons subjected to criminal proceedings shall have the right of defence throughout the proceedings [Art. 49].

In the acts of judicature any evidence or form of evidence that is likely to be suitable for the establishment of a fact to be proved may be freely used or resorted to during criminal proceedings. The courts are free to appraise such pieces of evidence singly or in conjunction and to decide their value according to their conviction formed on the basis thereof [Art. 5, para.3, of the Code of Criminal Procedure]. Judicial proceedings may be instituted only on the basis of an indictment lawfully filed. A court shall decide on the criminal responsibility of no person but the defendant and for no act but the offence charged.

The Act on Courts lays down the basic principle that the same courts shall proceed in the cases of all citizens irrespective of their social position and nationality [Art. 6]. The rights of nationalities are ensured, among others, by the basic principle that, while the language of court proceedings shall be Hungarian, no one shall suffer any prejudice for not knowing the Hungarian language. Everyone is entitled to use his own mother tongue in judicial proceedings [Art. 7].

In accordance with the Constitution, the Act on Courts further provides that the defendant shall have the right to choose counsel and that the participation of counsel in criminal proceedings shall be mandatory in cases defined by procedural law [Art. 9]. The Code of Criminal Procedure goes far to ensure the rights of the accused by providing, among others, that the proceeding authorities shall clarify the circumstances both adverse to and in favour of the defendant [Art. 5]; that no person shall be compelled by force, threats or similar means to make a confession [Art. 60, para.2]; that the accused may refuse to give evidence and that even if the accused pleads guilty all other evidence shall be procured [Art. 87, paras.2 and 3].

The court must state the reasons which led to its sentence, and the accused may appeal against any operative part of the sentence or solely against the reasons given therein. An appeal from a sentence passed on the accused may be lodged on his behalf both by the counsel and by the procurator [Art. 242, I/b, of the Code of Criminal Procedure].

Another safeguard of impartiality in judicial activity consists in the participation of people's assessors in the courts sitting in panels. In a court of first instance the panel is formed of one professional judge and two people's assessors, the latter having equal rights and duties with the former. The people's assessors are nominated by workers of enterprises, co-operatives, social organizations and State institutions functioning in the courts' areas of competence and are elected by the local councils for a term of 4 years. The people's assessors attached to the Supreme Court are nominated by the National Council of the Patriotic People's Front and are elected by the Presidential Council of the Hungarian People's Republic, likewise for a term of 4 years.

Similarly, the impartiality of the judicature is guaranteed by the activity of procurators. In accordance with constitutional provisions, the function of the procurators' organization is to promote and supervise the observance of legality, to assist in the correct application of the law by the courts and, when violations of the law occur, to take effective action in defence of legality [Art. 3, para.[b], of Act V of 1972].

III. In keeping with paragraph 3, subparagraph [a], of Article 19 of the Covenant, stating that the exercise of the rights provided for in paragraph 2 may be subject to certain restrictions if so required for respect of the rights or reputations of others, the Criminal Code of Hungary [Act V of 1961] also contains such limitations by providing, in Article 266, paragraph 1, that "whoever alleges or spreads a fact liable to injure the reputation of a third person, or uses an expression directly implying such an allegation, shall be punished with loss of liberty not exceeding six months or with correctional-educational labour not exceeding one year"; punishment shall be graver [loss of liberty not exceeding one year] if the act was committed in the press or by reproduction or otherwise before a considerable public [para.2/b].

The new Criminal Code [Act IV of 1978], which is to enter into force during 1979, contains similar provisions.

Allegation of a fact likely to injure reputation or honour is also punishable if the alleged fact may be true. Untruth is not a requirement intrinsic to this offence. In the legislators' view, the freedom of criticism and of speech cannot be allowed to include irresponsible or malevolent ventilation of matters involving the private life of others. Therefore, exceptionally, proof that an alleged fact is true is permissible only if the assertion or the spreading of the fact liable to injure honour, or the use of the expression pointing directly to such a fact, can be shown to have been motivated by the public interest or the legitimate interest of a person or persons [Art. 269]. If, however, with these conditions prevailing, the perpetrator is able to show the alleged fact to be correct, he shall be acquitted of the charge against him.

In like manner, the new Criminal Code refers to incitement in the following terms: "Whoever, before a large public, incites others to disobedience to laws and regulations or to measures by an administrative authority shall be deemed to commit an offence and be punishable with loss of liberty not exceeding three years" [Art. 268]. Subject to punishment is an act committed before a large public as a criterion of the offence.

IV. Supplement to Hungary's Report on the freedom of the press, the freedom of association and the freedom of conscience:

[A] Government Decree No. 26/1959.[IV.20.] on certain questions relating to the press:

Art. 4 [1]. Except as provided for in paragraphs [2] and [3], the publication and distribution of periodicals as well as the printing or reproduction by any other way and distribution of other publications shall be subject to authorization.

[2] No authorization shall be required for:

[a] official documents published by the National Assembly, the Presidential Council of the People's Republic, the Hungarian Revolutionary Workers' and Peasants' Government, and the Committees of the National Assembly;

[b] printed matter, ordered or published by the councils and other organs of State administration, containing exclusively official data and serving the conduct of business;

[c] printed matter, ordered or published by State enterprises and other economic agencies of the State or co-operatives, serving exclusively the economic activity or conduct of business of such enterprises [agencies] and not destined for public distribution;

[d] printed matter relating to the statutory operation of social organizations and not destined for public distribution;

[e] finally, the reproduction and distribution of printed matter which, in view of its subject theme, may be exempted from authorization by the Office of Information of the Government or the Minister of Education in accordance with the allocation of spheres of competence as established by Article 5.

[3] Furthermore, no authorization shall be required for the broadcasts of the Hungarian Radio and Television as well as the production and distribution of television films and picture recordings.

Art. 6 [1]. The permits issued to periodicals shall be valid, until withdrawn, for a number of copies and a size as stated therein.

[2] The permits issued for the reproduction and distribution of other printed matter shall be valid for a single publication as well as for a number of copies and a size as stated therein. A new permit shall be required for printed matter intended to be reproduced or reprinted in a number of copies or in a size exceeding the original.

[B] Right of Association

1. Act IV of 1977 on the Amendment and the Integrated Text of Act IV of 1959 on the Civil Code of the Hungarian People's Republic:

Art. 65 [1]. The associations set up by citizens in the exercise of their constitutional right for the purpose of developing social, cultural and other activities shall be juristic persons.

Art. 66 [1]. An association shall be deemed to be established when at least ten founding members decide, at the constitutive general assembly, to form an association, adopt its bye-laws and elect the bodies managing and representing it, and when the State body exercising supervision of legality with competence in the area of activity of the association registers the same.

[2] Registration shall not take place unless the statutory requirements have been met by founding members.

Art. 72 [1]. Associations shall operate as national or local associations and may organize groups.

[2] Local associations as well as professional and scientific associations in pursuit of similar goals may constitute themselves into common federations.

[4] An association may, in accordance with its bye-laws, carry out activities in other countries as well.

Art. 74. The other rules for associations shall be laid down in separate provisions of law.

2. Law-Decree No. 35 of 1970 on Associations:

Art. 1 [1]. In order to develop the social, economic and cultural activities of working people the Hungarian People's Republic guarantees the right of association.

[2] The functioning of an association shall not be contrary to the Constitution and other provisions of law.

Art. 2 [1]. The establishment of an association may be initiated by State, social and co-operative agencies as well as by citizens.

[2] An association may commence its activity after registration and may function only in the area of operation defined by its bye-laws.

Art. 3 [1]. An association may be joined by any Hungarian citizen of full age.

[2] The bye-laws may allow the admission of minors and/or the organization of youth groups for persons under age.

[3] The admission of non-nationals shall be subject to non-prohibitive provisions of the association's bye-laws and to the consent of the supervisory organ.

Art. 5 [1]. Supervision over national associations and their local groups shall be exercised by the Minister [head of the national high authority] of competence by the purpose of activities laid down in the bye-laws or, should the purpose of the association's activity come within the scope of competence of several Ministers, by the Minister of competence in the main line of the association's activity in concurrence with the other Ministers concerned.

[2] Supervision over local associations shall be exercised by the executive committee of the county [metropolitan] council of competence by the locality of the association. The competent Minister may take over the exercise of supervision over any of the local associations.

[C] Freedom of Conscience

1. Law-Decree No. 25 of 1959 on the Establishment of the State Office for Church Affairs:

Art. 1 [1]. A State Office for Church Affairs shall be established to attend to matters concerning relations between the State and religious denominations.

2. Government Decree No. 33/1959. [VI.2.] enforcing Law-Decree No. 25 of 1959 on the Establishment of the State Office for Church Affairs:

Art. 1 [1]. The State Office for Church Affairs established by Law-Decree No. 25 of 1959 of the Presidential Council of the People's Republic shall be concerned to:

1. ensure the implementation of agreements and accords concluded with the churches and religious denominations;

2. allocate, and control the utilization of, budgetary appropriations for religious instruction in schools;

3. provide State aid, in respect of personnel and physical facilities, for the maintenance of exempted church and denominational high schools;

4. attend to personnel and material issues concerning State support for churches and religious denominations;

5. attend to matters concerning church foundations and other ecclesiastical property;

6. prepare for adoption, and ensure the enforcement of, statutory provisions relating to churches;

7. attend to questions concerning the freedom of conscience and religious worship and ensure the free exercise of ecclesiastical functions;

8. implement measures adopted by the Council of Ministers in matters of the churches and control their implementation.

[2] State supervision over the church and denominational high schools operated under agreements with certain churches and religious denominations shall be exercised by the Minister of Education.

3. Government Decree No. 21/1957. [III.24.] on Religious Instruction:

Art. 1 [1]. In accordance with the freedom of religious worship laid down in Article 63 of the Constitution and with the spirit of the agreements signed between the State and the churches, religious instruction shall be considered to be exclusively a private affair of citizens. Citizens shall be ensured the right to decide whether or not their minor child should receive religious instruction in primary or high school.

[2] The freedom of everyone to participate or not in religious instruction shall be respected. The rigour of the law shall be applied against whoever:

- exploits religious instruction for political goals against the State, social or economic order of the Hungarian People's Republic;

- seeks to influence, by force, threats or deceit, the decision of anyone to participate or not in religious instruction;
- resorts to force or threats to prevent religious instruction or participation in it.

Art. 2 [1]. Religious instruction as an optional subject shall take place in primary and high schools.

[2] The divinity classes may be held in accordance with school regulations which may be in force from time to time, outside compulsory school-time, either before or after school hours, with a duration of two hours a week.

Art. 3 [1]. Enrolment for religious instruction shall be effected every year not later than one week following school enrolments. The exact date of enrolment shall be made known through the press and the radio as well as by the head teachers and principals.

[3] Decision on the participation or non-participation of minors in religious instruction shall lie with the parent exercising parental supervision or with the guardianship authority.

Art. 4. Religious instruction may be given and its control on the part of churches may be exercised only by qualified persons entrusted by the churches and approved by the educational agency of the executive committee of county councils.

The citizens of the Hungarian People's Republic enjoy equal rights under the Constitution, with no discrimination prevailing in the exercise of any of the civic rights, including the right to continuation of studies, which is accordingly recognized also for those with denominational school records.

V. The National Assembly has no power to annul judicial decisions. The ruling of a court may be overruled only by another court in accordance with the rules of criminal and civil procedure.

A judicial decision may be set aside by the legislative body in only one case, and solely in favour of the defendant, namely if the Presidential Council elected from among the Members of Parliament exercises its prerogative of pardon [para. 1, sub-para. [j], of Article 30 of the Constitution].

Nothing but decisions of the local organs of State power may be set aside by the National Assembly.

VI. The basic principles such as free and voluntary marriage and the equality of spouses in respect of rights and duties concerning personal and property relations as well as the upbringing of children emanate from the provisions of the Constitution and from the social order and the socialist morality of the country, and are given full effect in the rules of family law which are invoked by and embodied in the fundamental statutory provisions governing care for mothers and infants, the total abolition of discrimination against children born out of wedlock, etc.

These laws and regulations are consistently enforced by the courts acting as organs of the State on the one hand and interpreting the opinion of the body social on the other.

VII. The Covenant was promulgated by a Law-Decree integrating it into the legal system of Hungary. Its provisions may accordingly be invoked by everyone before the courts and other authorities.

VIII. The Hungarian law of criminal procedure governs not only court proceedings but also proceedings before any authority participating in the process preceding the formulation of judgment. As provided for in Article 1 of the Code of Criminal Procedure, the aim of the Act is to ensure, by regulating criminal proceedings, investigations into the crimes committed and the application of the criminal law of the Hungarian People's Republic in conformity with socialist legality.

Accordingly, the rules of criminal procedure are applicable also to the activity of the investigating authorities [police, procurator's office].

IX. As has been noted, the Covenant has the force of law in Hungary. Therefore, cases of conflict with the Constitution and other laws are settled by legislative action following the same process as in cases of conflicts between the Constitution and other rules of national law. [It is noted that in Hungary there is no regulation by virtue of which laws contrary to the Constitution are automatically abrogated. Nor is there a kind of constitutional court with powers to challenge the constitutionality of any legislation.]

X. The procedure to be followed in connexion with travel abroad is laid down by Law-Decree No. 20 of 1978 of the Presidential Council of the Hungarian People's Republic on Travel Abroad and Passports and is regulated anew, with effect from 1 January 1979, by Government and ministerial decrees on the former's enforcement, in keeping with the developments in the State, social and economic life of Hungary.

Of great significance for the exercise of civic rights is the provision that every Hungarian citizen shall have the right to travel abroad in accordance with the laws and regulations.

According to the figures published by the Central Statistical Office, Hungarian citizens made some 5.5 million travels abroad in 1978.

The grounds for disqualification and the circumstances supporting their consideration, as well as the administrative procedures, have been revised to facilitate the exercise of civic rights.

The grounds for disqualification follow the pattern of international practice and affect the category of persons whose travel or stay abroad is prejudicial to the security of the State or to some other important public interest, and those who have committed a criminal offence or are subjected to criminal proceedings, etc.

In regard to most of the grounds for disqualification the new regulation contains permissive rules for refusal of applications in contrast to the previous categorical rules prohibiting the issue of passports.

Under the new set of statutory provisions, the authorities proceeding in first instance are given more powers to use their discretion to consider circumstances in favour of citizens.

Nevertheless, the social interest of the country as much as the individual interests of citizens equally require that, as a general rule, applications for travel should be refusable to countries where the protection of interests and rights cannot be guaranteed [Republic of South Africa, Chile, Israel].

Individual tourist travels or visits to countries in the non-rouble accounting system are limited to three or two occasions a year, keeping in view the country's economic situation and foreign exchange availabilities. Visits are authorized more frequently in justified cases [important family events, disease, etc.].

A broad range of legal remedies is available against administrative decisions concerning the issue of passports. The decisions of the authority acting in first instance are appealable, while a complaint or a petition for review may be lodged against a rejection of appeal.

In 1978 the decisions of first instance were favourable in 99.1 per cent of all applications.

In spite of the legal grounds otherwise supporting refusal, 47.7 per cent of appeals in second and third instance were granted, mostly for special consideration.

It is due to the correct passport policy of the Hungarian People's Republic that travels abroad by Hungarian citizens have shown an expansionary trend for a number of years now. The number of people who travelled abroad in 1978 was 15.9 per cent above the figure for the preceding year.

XI. The Constitution guarantees the freedom of speech, which can be exercised by social organisations, workplace collectives, the population, and individuals at numerous forums and through other channels provided by law.

Every citizen may voice his/her opinion or dissent, which is not only called for but also relied upon by the State and political leadership.

Liable to punishment are exclusively such manifestations for which a penalty is prescribed by the Criminal Code or other law.

XII. Women's de jure equality of rights is guaranteed by Articles 61 and 62 of the Constitution, by the family law [Act I of 1972 amending Act IV of 1952 on Marriage, Family and Guardianship], by the Labour Code [Act II of 1967 and Government Decree No. 34/1967. [X.8.] on its enforcement], and by other legislation.

Following are some of the essential provisions of the aforesaid legislation giving effect to the equal rights of women:

[a] Concerning the establishment of employment relations

In the establishment of employment relations and the determination of rights and duties arising from employment workers shall not be subject to discrimination on account of their sex [Art. 18, para.3, of the Labour Code].

Employment must not be denied to pregnant women or mothers on account of pregnancy or motherhood [Art. 19, para.2, of the Labour Code].

[b] Concerning the protection and assignment to work of pregnant women and mothers with little children

From the date of establishment of pregnancy, women must not be employed on work harmful to their health. Such types of work shall be defined by the Minister of Health [Art. 12, para.3, of Government Decree No. 34/1967].

A working woman from the fourth month of her pregnancy until the end of the sixth month of nursing shall, at her request supported by medical opinion, be temporarily transferred to work suited to her condition [*ibid.*, Art. 23, para.4].

A working woman from the date of establishment of pregnancy until the child completes one year of age shall not be assigned to work in another locality except with her consent [*ibid.*, Art. 40, para.2].

From the fourth month of her pregnancy until the child completes six months of age a working woman shall by no means be required to work overtime or be on stand-by duty, while from that period until the child completes one year of age she may be assigned to such work with her consent only. Until the child reaches one year of age she must not be assigned to night work [Art. 38, para.3, of the Labour Code], while even if the child is over one but under six years of age she may be required to do night work in exceptional cases only [Art. 46, para.2, of Government Decree No. 34/1967].

From the fourth month of her pregnancy until the child completes one year of age a working woman shall be allowed, so far as possibilities permit, to work on the morning shift [*ibid.*, Art. 44, para.3].

[c] Concerning leave and time off

A pregnant woman or woman in confinement shall be entitled to a maternity leave of 20 weeks or, in case of abnormal delivery, 24 weeks. For this period she shall receive, under the social insurance scheme, a pregnancy and confinement allowance equal to the full amount of her average wage [Art. 43, para.2, of the Labour Code].

Upon expiry of the maternity leave a mother shall, at her request, be allowed unpaid leave for attending to the child until completion of its third year [Art. 57 of Government Decree No. 34/1967]. For the duration of unpaid leave she shall be entitled to a child-care allowance, provided that during 18 months prior to delivery she has completed 12 months of service with at least 6 hours of work a day [Art. 1, of Government Decree No. 3/1967/I.29.].

In addition, eligibility for a child-care allowance is extended to a working woman who within 90 days from completion of her studies in the daytime course of any school [educational establishment] she has established employment relations or has become a member of an industrial co-operative, provided that her working time was at least 6 hours a day and that she is on unpaid leave for attending to her child. A child-care allowance shall also be due to a woman who within 90 days from completion of studies has become a member of an agricultural/fishery/co-operative [*ibid.*, Art. 1, para.3].

Following delivery a working mother shall be allowed a daily nursing period of 90 minutes until the end of the sixth month of nursing and a daily nursing period of 45 minutes until the end of the ninth month of nursing [Art. 53 of Government Decree No. 34/1967].

A working mother with a child under ten years of age shall be granted unpaid leave for the purpose of nursing her ill child. During the period of unpaid leave she shall be entitled to sick pay for the duration of the contingency if the child is under one year of age, for 60 days a year if the child is over one but under three years of age, and for 30 days [in case of single mothers 60 days] a year if the child is over three but under six years of age [Art. 19 of Act II of 1957].

A supplementary leave shall be due to mothers with several children: 2 days per year for 3 children, 2 more days for every additional child, but in any case not more than 12 days a year [Art. 42 of the Labour Code; Art. 50, para.2, of Government Decree No. 34/1967].

A working mother who has one or more children under 14 years of age shall be entitled to 2 paid days off for 1 child, to 5 days off for 2 children, and to 9 days off for 3 or more children for the purpose of attending to her household [Art. 18/C of Decree No. 6/1967. [X.8.] of the Minister of Labour].

A working mother who has at least two children under 14 years of age shall, at her request, be allowed an additional one day off without pay per month [*ibid.*].

[d] Concerning the termination of employment

The employer shall not terminate by notice the employment of:

- the wife of a conscript;
- a mother during pregnancy and for 6 months after delivery;
- a mother nursing her ill child during the period of entitlement to sick pay;
- a mother while on unpaid leave for attending to her child [Art. 26 of Government Decree No. 34/1967].

Dismissal as a disciplinary penalty must not be effected during the period of maternity leave [*ibid.*, Art. 94, para.2].

The employment of a mother rearing her child under 18 years of age alone shall not be terminated by notice except for particularly important reasons [*ibid.*, Art. 27].

State agencies and other employers shall ensure the de facto application of these provisions of law. In the last resort, women's equality of rights is enforced by the courts.

XIII. Non-compliance with a contractual obligation entails civil law sanctions only under the Hungarian legal system. The criminal law of Hungary does not permit e.g. imprisonment merely on the grounds of one's inability to fulfil a contractual obligation.

XIV. More than 20,000 non-nationals reside permanently in the territory of the Hungarian People's Republic. The conditions for permanent residence are laid down in Government Decree No. 24/1966. [IX.25.].

In case of marriage with a non-national, the spouse applying for permanent residence is accorded precedence in granting applications. Some 60 per cent of all residence permits is issued on this ground.

Applications for residence permits shall be accompanied by official documents in proof of marriage.

Under the said Decree, "permission for permanent residence in the national territory shall be denied to an alien:

- whose residence is prejudicial to the interests of the Hungarian People's Republic;
- who has no secure means of subsistence and housing".

These conditions are naturally relevant to all of the grounds invoked in support of an application.

XV. The right to life

AVERAGE EXPECTATION OF LIFE AT BIRTH
[Year]

Year [Average of years]	Males	Females
1920-1921	41.0	43.1
1930-1931	48.7	51.8
1941	54.9	58.2
1948-1949	58.8	63.2
1955	65.0	68.9
1959-1960	65.2	69.6
1968	66.6	71.9
1970	66.3	72.1
1974	66.5	72.4

INFS

INFANT MORTALITY RATES BY AGE a/

Age	Average of			1977		
	1959- 1960	1961- 1970	1971- 1975	Boy	Girl	Total
Under 1 day	12.9	13.4	13.7	11.4	8.6	10.1
1-6 days	9.5	10.0	10.8	9.3	7.2	8.3
7-30 days	6.0	4.5	3.3	2.6	2.8	2.7
Under 1 month, total	28.4	27.9	27.8	23.3	18.6	21.1
1-5 months	15.9	8.3	4.5	4.1	3.5	3.8
6-11 months	5.8	3.2	1.5	1.4	1.1	1.2
Under 1 year, total	50.1	39.4	33.8	28.8	23.2	26.1

a/ Deaths of infants under 1 year of age per 1,000 live births.