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Conseil des droits de l'homme

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Point 3 de l'ordre du jour

**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Informations communiquées par le Commissaire aux droits fondamentaux de la Hongrie*

Note du secrétariat

Le secrétariat du Conseil des droits de l'homme fait tenir ci-joint la communication soumise par le Commissaire aux droits fondamentaux de la Hongrie**, qui est reproduite conformément à l'article 7 b) du règlement figurant dans l'annexe de la résolution 5/1 du Conseil des droits de l'homme, qui dispose que la participation des institutions nationales des droits de l'homme s'exerce selon les modalités et les pratiques convenues par la Commission des droits de l'homme, y compris la résolution 2005/74 du 20 avril 2005.

* Institution nationale des droits de l'homme à laquelle l'Alliance globale des institutions nationales des droits de l'homme a accordé le statut d'accréditation « A ».

** La communication est reproduite en annexe telle qu'elle a été reçue, dans la langue de l'original seulement.



Annexe

[Anglais seulement]

Submission by the Commissioner for Fundamental Rights of Hungary

Statement of the Commissioner for Fundamental Rights of Hungary on the report of the Special Rapporteur on the situation of human rights defenders

The UN Special Rapporteur on the situation of human rights defenders has prepared a report summarizing the findings of his mission to Hungary. As Commissioner for Fundamental Rights and National Human Rights Institution of Hungary, I would like to express my appreciation for the possibility to inform the Council on my views concerning the report. Taking into account that I have had less than three days to study the report, formulate and forward my position, my response is going to be focusing but on the major points set forth in the recommendations addressed to me:

“108. The Special Rapporteur recommends that the Ombudsman: (a) Strengthen the scope of his activities by prioritizing and reacting to concerns raised by human rights defenders;”

The scope of my activities as Commissioner for Fundamental Rights, my competences and tasks are specified by Act CXI of 2011 on the Commissioner for Fundamental Rights. Section 2, Subsection (5) of the Act provides for the cooperation between the Commissioner and organizations promoting fundamental rights as follows:

“The Commissioner for Fundamental Rights shall promote the enforcement and protection of fundamental rights. In doing so, he/she shall engage in social awareness raising and information activities and cooperate with organizations and national institutions aiming at the promotion of the protection of fundamental rights.”

In this context, I would like to emphasize that we have been maintaining traditionally close and good relations with human rights institutions ever since the establishment of the ombudsman institution in 1995. My Office conducts active, both ad hoc and institutionalized, cooperation with all human rights organizations operating in Hungary in various areas.

Among the various forms of cooperation, first and foremost we should mention our support provided, on a case-by-case basis or within the frameworks of strategic cooperation agreements (e.g., with Kék Vonal Child Crisis Foundation, International Children’s Safety Service, UNICEF National Committee Hungary), to human rights organizations. We maintain intensive professional relations with various civil society organizations, including, but not limited to the following:

- Social and healthcare: Public Foundation for the Homeless, Shelter Foundation, Hungarian Charity Service of the Order of Malta, Hungarian Science Council for Rural Healthcare, Hungarian Hospital Alliance, Hungarian Psychiatric Association
- Persons with disabilities: National Federation of Disabled Persons’ Associations (MEOSZ), Hungarian Association of the Deaf and Hard of Hearing (SINOSZ), National Association of Autists (AOSZ), Hungarian Federation of the Blind and Partially Sighted (MVGYOSZ), Hungarian Association for Persons with Intellectual Disability (ÉFOÉSZ)
- Human rights organizations: Hungarian Helsinki Committee, Hungarian Civil Liberties Union, Háttér Society
- Civil cooperating partners of the Ombudsman for the Rights of National Minorities: European Roma Rights Centre, Partners Hungary Foundation

- Environment and nature protection organizations cooperating with the Ombudsman for Future Generations Humusz Waste Prevention Alliance, Hungarian Ornithology and Nature Protection Organization, Hungarian Association of Conservationists, Environmental Management and Law Association, Ecological Institute for Sustainable Development, WWF Hungary, Csemete Nature and Environmental Protection Association, GATE Green Club Association, Csalán Environment and Nature Protection Association

In the field of the rights of the child, my Office contributes, with consultation and participation rights, to the activities of the Civil Coalition for the Rights of the Child, an umbrella organization coordinated by the UNICEF National Committee Hungary. This forum provides opportunities to exchange views on domestic and international developments, practices and issues, which is extremely important from the aspects of the proactive and preventive protection of rights.

Upon starting my activities as NPM, I established a civil consultative body (CCB), consisting of four organizations invited by me (Hungarian Medical Chamber, Hungarian Psychiatric Association, Hungarian Dietetic Association, Hungarian Bar Association), and another four organizations selected through a public call for application (Hungarian Helsinki Committee, MENEDÉK - Hungarian Association for Migrants, Hungarian Civil Liberties Union, Mental Disability Advocacy Centre). The CCB, in addition to assisting the activities of the National Preventive Mechanism with its comments and recommendations, also functions as a two-way information channel.

My Office regularly forwards its annual and project reports (e.g., “Their Shield is the Law”, “Child-friendly Justice”, “Losers in the Crisis”, “The Dignity of Labour” etc.) to the civil society organizations concerned; their representatives are invited to our themed events and my Office is represented, either by myself or by my deputies, other colleagues, at the professional events, conferences organized by these human rights organizations. Due to the limited nature or the absence of their own infrastructure, various human rights organizations often turn to us with the request to provide venue for their various events. Depending on our free capacities, we try and accommodate these requests. We have to mention here that the Coordination Council of Environmental Organizations regularly holds its meetings in the Office of the Commissioner for Fundamental Rights; my colleagues are regularly invited to these meetings.

In accordance with the above, we closely cooperate with several civil society organizations. A specific form of professional relations is the investigation of complaints submitted by human rights organizations. In average, we receive around one hundred submissions annually from civil society organizations and other human rights defenders. A great number of them voice criticism concerning the constitutionality of certain legal regulations or raise healthcare- or equal-opportunity-related issues; we also receive submissions related to taxes and duties, labor issues, ethnic community rights, self-governments issues, calls for application, social issues, homelessness and public services etc. Just as before, in the future as well we are going to pay special attention, taking into account the complainants’ professional profile, to submissions received from human rights institutions. Just to give some examples: last year, acting upon UNICEF’s initiative, we conducted a comprehensive investigation into and published a report on the procedural guarantees in criminal proceedings concerning refugee children; we published two reports on LGBT issues based on the submissions by Háttér Society and Transvanilla Society; on the basis of a submission by the Eötvös Károly Institute, we conducted an inquiry and made some recommendations as regards the autonomy of higher education.

My Office will continue to lay emphasis on maintaining and developing efficient professional relations with human rights organizations in the future, too.

108. The Special Rapporteur recommends that the Ombudsman: (b) actively engage the Constitutional Court on constitutional complaints, including those that may be considered political or institutional, and proactively follow up on the implementation by the Government of his recommendations.

In addition to one fourth of the representatives of the Parliament, the Government, the Prosecutor General and the President of the Curia, the Fundamental Law and the Act on the Constitutional Court also empower the Ombudsman to request an abstract constitutional review from the Constitutional Court. Other persons may turn to the Constitutional Court only in individual cases, if they are directly concerned. The Ombudsman also may petition the Constitutional Court to give an abstract interpretation of the Fundamental Law's provisions.

After the Fundamental Law took effect, I established the practice of turning to the Constitutional Court exclusively in cases when, in my professional opinion, the criticized legal regulation is anti-constitutional, and, in the given case, I find the constitutional review thereof being the most efficient way of remedying its anti-constitutionality. In every other case, I notify the legislator of my professional concerns, and, if I do not find the given legal regulation anti-constitutional, I give a substantive constitutional response to the complainant explaining the reasons of rejecting his/her/its submission. During the initial period (2012–2013) the Ombudsman petitioned the Constitutional Court on nearly 40 occasions. This outstanding number may be explained, on the one hand, by the substantial transformation of the legal system, and, on the other hand, by the fact that it was not quite clear what substance the individual provisions of the Fundamental Law really had. Later on, both the number of petitions and the number of complaints requesting a petition decreased.

I would also like to inform the Council that, as an alternative to petitioning the Constitutional Court, the Ombudsman may request the Curia to annul an unlawful decree of self-government, and, pointing out the anomalies in and proposing the modification of a regulation, ask any governmental organ to clarify its position thereon.
