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## مجلس حقوق الإنسان

### الدورة الثامنة والخمسون

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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى هنغاريا

### تقرير المقررة الخاصة المعنية بحرية الدين أو المعتقد، نازيلا غانيا \* \* \*

#### موجز

أجرت المقررة الخاصة المعنية بحرية الدين أو المعتقد، نازيلا غانيا، زيارة إلى هنغاريا في الفترة من 7 إلى 17 تشرين الأول/أكتوبر 2024. ويقدم تقريرها نظرة متعمقة عن حالة حرية الدين أو المعتقد من منظور القانون الدولي لحقوق الإنسان، ويتضمن توصيات بشأن الوسائل التي تتيح التصدي للشواغل المطروحة.

\* قُدِّم هذا التقرير إلى خدمات المؤتمرات لتجهيزه، بعد انقضاء الموعد النهائي، بغية تضمينه أحدث المعلومات.

\*\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعمم باللغة التي قُدِّم بها فقط.



الرجاء إعادة الاستعمال

## المرفق

## تقرير المقررة الخاصة المعنية بحرية الدين أو المعتقد، نازيلا غانيا عن زيارتها إلى هنغاريا

### I. Introduction

1. In the present report, the Special Rapporteur on freedom of religion or belief, Nazila Ghanea, presents the findings from her visit to Hungary from 7 to 17 October 2024. This was the first visit by the mandate holder to Hungary, and carried out at the invitation of the Government pursuant to Human Rights Council resolution 49/5. The main purpose of the visit was to assess freedom of thought, conscience, religion or belief in Hungary in the light of the country's international human rights obligations, and to identify existing and emerging obstacles to the enjoyment of this right and offer recommendations to address them.

2. The Special Rapporteur appreciated the constructive meetings held with government officials, including the State Secretary and Deputy State Secretary for Relations with Churches and National Minorities, the State Secretary for Aid to Persecuted Christians, the Deputy State Secretary for Civil Society, representatives of the Department for Church Relations, representatives of the Ministry of the Interior, including the Deputy State Secretary for Social Affairs, and representatives of the National Council for Crime Prevention, the National Directorate-General for Aliens Policing, the National Police, the Prison Service, the National Directorate of Hospitals and the Hungarian Educational Authority. She also met the Deputy Speaker of Parliament, judges at the Supreme Court (the Curia) and the Constitutional Court, and prosecutors. In addition, she met the Commissioner for Fundamental Rights of Hungary as well as the Deputy Mayor of Debrecen and representatives of the Office of the Mayor of Budapest.

3. During her visit, the Special Rapporteur also met a wide range of civil society organization actors: representatives of non-governmental organizations (NGOs); academics and writers; representatives and leaders of religious and belief organizations and communities; other faith-based actors and some members of the diplomatic community.

4. The Special Rapporteur commends Hungary for having maintained a standing invitation to special procedures since 2001.<sup>1</sup> She is grateful to the Government for accepting her visit request, and to the Ministry of Foreign Affairs for its cooperation. She extends her appreciation to all the civil society actors whom she met during and in connection with the visit for their insights and the candid discussions held.

### II. Political and historical context

5. Hungary is a landlocked central European country bordered by Austria, Croatia, Romania, Serbia, Slovakia, Slovenia and Ukraine. Hungary occupies most of the Pannonian (or Carpathian) Basin – a fertile, flat region encircled by the Alps to the west and the south, the Carpathians to the north and the east and the Balkan Mountains to the south. This unique geography has shaped the history and current reality of Hungary.

6. Hungary is divided into 19 counties. The capital, Budapest, is an independent administrative region and, as both a city and municipality, it has some 33 per cent of the country's population of 9.6 million (according to the 2022 national census). After Budapest, the next largest cities are Debrecen (204,000 inhabitants), Miskolc (172,000 inhabitants) and Szeged (164,000 inhabitants). The population of Hungary is decreasing and is ageing at a

<sup>1</sup> Eight special procedure mandate holders have visited Hungary. Prior to the Special Rapporteur's visit, the most recent visit was by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, in 2021 (see [A/HRC/50/29/Add.1](#)).

high rate; its population growth of -0.28 per cent ranks 212th (out of 236) globally and is the result of low birth rates, emigration and the stance on immigration.

7. The population of Hungary is reportedly roughly 84.3 per cent Hungarian (Magyar), 2.1 per cent Roma, 1 per cent German, 1.2 per cent “other” and 13.7 per cent “unspecified”.<sup>2</sup> However, many assert that up to 10 per cent of the population of Hungary are Roma. The Government has officially designated a number of minority groups, including the Roma, as “national minorities”.

8. According to the results of the 2022 national census, in response to the question on religious affiliation, 40 per cent of the population ticked “I do not wish to answer this question”, 28 per cent indicated that they were Roman Catholic and 16 per cent ticked “I do not belong to any religion or denomination”. The main religious groups in Hungary belong to the Roman Catholic Church, the Reformed Church of Hungary (Calvinist), the Evangelical Lutheran Church, the Greek Catholic Church and the Jewish faith. Others are Greek Orthodox, members of the Faith Congregation (a Pentecostal group), members of the Hungarian Evangelical Fellowship (Hungarian Evangelical Brotherhood), Russian and other Orthodox Christians, members of other Christian denominations, Baha’is, Buddhists, followers of the Hungarian Society for Krishna Consciousness, Muslims and members of the Church of Scientology.

9. The history of Hungary was regularly raised by interlocutors – from government authorities, religion or belief communities and civil society – before discussing the present day. They highlighted the severe restrictions of the Communist era (1949–1989) on freedom of religion or belief, the ban on religious education and the purging of Catholic and Protestant churches and they identified current State–religion relations as a response to that. After a long history of varying authoritarian regimes, the country’s modern constitutional parliamentary democracy was introduced in 1989, with democratic institutions set up and developed during the subsequent 20 years.

10. Hungary was the first in the region to rewrite its constitution to embrace democratic values. Free and fair elections followed from 1990 to 2010, with a regular alternation of governments between the left and the right. Hungary experienced the largest inward flow of foreign direct investment in post-communist Europe and one of the least chaotic economic transitions. International NGOs placed their Eastern or Central European headquarters in Budapest, which was widely regarded as the most stable and sympathetic regional home. The country’s 2003 referendum on joining the European Union returned an 84 per cent vote for the “yes” camp. Hungary entered the European Union in 2004 after sailing through external assessments recognizing its democracy, respect for the rule of law, human rights protection and stable market economy.

11. In recent years, Hungary has been governed by the Alliance of Young Democrats (Fidesz), led by Viktor Orbán. Fidesz and coalition partners, including the Christian Democratic People’s Party, have secured a supermajority in Parliament in every election since 2010 (i.e. in 2014, 2018 and 2022). The Government used its supermajority to pass a new Constitution in 2011 and has amended it several times since. According to human rights practitioners and analysis, this concentration of power has had a negative effect on democracy and human rights, as the country has taken an authoritarian, nationalistic turn.

### III. International legal framework

12. Hungary ratified the International Covenant on Civil and Political Rights in 1974 and is party to various international and regional human rights treaties, including the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Hungary joined the North Atlantic Treaty Organization in 1999 and the European Union in 2004, and is thus bound by the Treaty on European Union and the Charter of Fundamental Rights of the European Union. However, the relationship with both entities has been tense since 2010.

<sup>2</sup> See <https://www.cia.gov/the-world-factbook/countries/hungary/>.

13. The right to freedom of religion or belief is protected by article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights, article 9 of the European Convention on Human Rights and article 10 of the Charter of Fundamental Rights.

14. Hungary reports regularly to human rights mechanisms. Concerns raised by treaty bodies in their concluding observations during the period 2018–2023 have included xenophobia and intolerance, including hate crimes and online hate speech directed at religion or belief and racial minorities, and other vulnerable groups; discrimination and social exclusion faced by Roma; and regression in the promotion of gender equality. These concerns were also raised during the third universal periodic review of Hungary, in November 2021.<sup>3</sup>

#### IV. National laws, policies, institutions and practices

15. The Fundamental Law (Constitution) of Hungary, adopted in 2011, guarantees the right to freely choose, change and practise religion and to engage in religious ceremonies both publicly and privately (art. VII (1)). The law explicitly prohibits discrimination based on religion. The country's legal system criminalizes any speech that is aimed at violating the dignity of religious communities or inciting hatred against them, with punishments ranging from fines to imprisonment for incitement to violence, threats, hate speech or the public denial of historical atrocities such as the Holocaust. The Penal Code declares anyone who “publicly denies, casts doubt on, trivializes, or attempts to justify the fact of genocide or other acts against humanity committed by the National Socialist or Communist regimes” as being guilty of a felony (art. 333).

16. The National Avowal at the beginning of the Constitution states that “We recognize the role of Christianity in preserving nationhood. We value the various religious traditions of our country”. Christianity is referenced several times in the Constitution. Although the Fundamental Law asserts the historical role of Christianity in shaping the nation, it maintains the principle of the autonomy of “churches” (used to refer to all religious organizations). The State cooperates closely with churches in the provision of education, healthcare, child protection and other social services (art. VII (4)).

17. The 2011 Church Law (Act CCVI) marked the biggest shift in the country's legal approach to religion or belief organizations since 1990. Previously, any group of citizens could establish a religious organization and some 350 religious or belief groups were recognized. The 2011 law narrowed the scope and parameters of legal personality for religious or belief communities. As a result, it stripped the majority of them of their legal status, reducing the number of such organizations that are officially recognized to 14, and later to 32 – other organizations need a majority vote in Parliament in order to be recognized. These changes received much criticism, including from special procedure mandate holders,<sup>4</sup> and resulted in litigation, including at the European Court of Human Rights. There are currently 32 “established churches”, 16 “registered churches” and 260 religious associations, categorized in four tiers (see para. 30 below).

18. In the case *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, of 2014, the European Court of Human Rights held that the deregistration of the applicants as churches had led to violations of article 11 (freedom of association), read in the light of article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights, and unfairly discriminated against certain religious groups by denying them access to State benefits and public funding.

19. In response to both domestic and international criticism, the Government of Hungary amended the Church Law in 2018. The amendments took effect in 2019, allowing religious organizations to determine their own internal structures, and permitting all such

<sup>3</sup> See [A/HRC/49/8](#).

<sup>4</sup> See communication [HUN 2/2011](#). All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

organizations to receive 1 per cent of voluntary tax donations from the public and a further 1 per cent from voluntary tax donations to charitable institutions and civil society. However, the amendments fell short of addressing the broader discrimination concerns.

20. Hungary does not have a national human rights action plan or strategy, but its principal related action plans are focused on social inclusion, poverty reduction, women, children and the environment. There has been a distinct shift from a gender equality framing to one emphasizing traditional family structures and the childbearing role of women. The Empowering Women in the Family and Society Action Plan (2021–2030) replaced the National Strategy for the Promotion of Gender Equality (2010–2021), and the National Social Inclusion Strategy 2030, adopted in 2021, highlights poverty alleviation and the reduction of inequalities in poverty and social mobility indicators between the living conditions of the Roma and non-Roma populations.<sup>5</sup>

21. The Commissioner for Fundamental Rights of Hungary combines the triple functions of ombudsman, national human rights institution and national equality body. Previously, the Hungarian Ombudsman Institution had three (from 1995 to 2006) then four (from 2007 to 2012) ombudsmen. The establishment of the Commissioner for Fundamental Rights in 2012 merged the separate ombudsmen<sup>6</sup> and, in January 2015, the Commissioner for Fundamental Rights was also designated as the country's national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>7</sup> In 2020, the Independent Police Complaints Board was integrated into the institution and, in 2021, the Equal Treatment Authority was disbanded and integrated into the Office of the Commissioner for Fundamental Rights.

22. The legal foundation for the Commissioner for Fundamental Rights is article 30 of the Constitution of Hungary, and the mandate is in Act CXI of 2011. The Commissioner's primary function is to protect fundamental rights, to inquire into any violations of fundamental rights and to initiate measures to remedy such violations. The Commissioner is elected by Parliament and has two elected deputies: the Deputy Commissioner for Fundamental Rights, Ombudsman for the Rights of National Minorities; and the Deputy Commissioner for Fundamental Rights, Ombudsman for Future Generations. The Commissioner is accountable solely to Parliament and cannot conduct inquiries into the activities of Parliament, the President, the Constitutional Court, the State Audit Office, the courts or the Prosecution Service.<sup>8</sup>

23. The Commissioner for Fundamental Rights received A status accreditation from the Global Alliance of National Human Rights Institutions in 2014, but was downgraded to B status in 2021,<sup>9</sup> meaning that it cannot vote or hold governance positions in the Global Alliance. This was due to its failure to demonstrate its independence and its inability to address human rights issues adequately or to refer those issues to the Constitutional Court. The Commissioner for Fundamental Rights has objected to the downgrading of its accreditation status.<sup>10</sup>

<sup>5</sup> See [https://szocialisportal.hu/wp-content/uploads/2024/01/Closing\\_Study\\_NRP\\_2022\\_2023.pdf](https://szocialisportal.hu/wp-content/uploads/2024/01/Closing_Study_NRP_2022_2023.pdf).

<sup>6</sup> Article 30 of the Constitution.

<sup>7</sup> Act CXI of 2011, sects. 2 (6) and 39/A to 39/E; and Act CXLI of 2011 on the Promulgation of the Optional Protocol to the Convention against Torture.

<sup>8</sup> Act CXI of 2011, sect. 18 (3).

<sup>9</sup> See <https://ganhri.org/wp-content/uploads/2024/06/StatusAccreditationChartNHRIs.pdf>.

<sup>10</sup> European Network of National Human Rights Institutions, "The state of the rule of law in Europe: reports from national human rights institutions – Hungary", p. 16. Available at [https://ennhri.org/wp-content/uploads/2023/08/Hungary\\_Country-Report\\_Rule-of-Law-2023.pdf](https://ennhri.org/wp-content/uploads/2023/08/Hungary_Country-Report_Rule-of-Law-2023.pdf).

## V. Main findings from the visit

### A. Public manifestation of religion or belief

24. Article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights enshrine the universal right to freedom of thought, conscience, religion or belief. In its general comment No. 22 (1993), the Human Rights Committee interprets article 18 of the International Covenant on Civil and Political Rights.

25. This fundamental right includes the right to have, hold or change one's theistic, non-theistic, atheistic or non-religious beliefs and the right, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. The freedom to manifest religion or belief in worship should be understood as encompassing "a broad range of acts";<sup>11</sup> as detailed, non-exhaustively, in article 6 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Both aspects of the right protect the ability to think independently, to develop identity, to shape religious and belief convictions and commitments and to live accordingly.

26. Interlocutors in Hungary stated that they enjoyed the freedom to have, adopt and change religion or belief and that religion and belief communities could worship, associate and gather irrespective of whether they were recognized in the four-tier system or not. They spoke of a sphere of protection for all in relation to a general sense of physical security and integrity – which is clearly welcome, but it does not cover the full scope of freedom of religion or belief and non-discrimination. Nevertheless, several interlocutors reported that they felt highly vulnerable given the extent of "normalized" intolerance in social and traditional media.

27. Vandalism of religious places of worship and burial sites is criminalized in Hungary and any person who causes public scandal in a place of worship or desecrates religious objects in or outside rooms assigned for rites commits an infraction according to Hungarian law.<sup>12</sup>

28. In 2018, a previous Special Rapporteur expressed concerns about the repeated denial of and unjustified delay to permission for the Church of Scientology to maintain its headquarters and place of worship in Budapest.<sup>13</sup> The Government has reportedly targeted the Church of Scientology through raids, denial of occupancy certificates and seizures of confidential religious files. International bodies have criticized the actions of Hungary, arguing that they violate human rights. The Special Rapporteur notes that this case raises concerns about broader discriminatory practices toward minority religions in Hungary.

29. Christian symbols are often displayed at State functions in Hungary. The Special Rapporteur notes a lack of legal clarity and of jurisprudence in Hungary on the use of religious symbols in the public sphere, given the separation of church and State. She was informed during her visit about the controversy surrounding the imposing Budapest Citadella Statue, or Liberty Statue, erected in 1947, commemorating those who had sacrificed their lives for the independence of Hungary. The Government plans to add a Christian cross to it as a symbol of Hungary being a Christian nation; many people are opposing such a change.

<sup>11</sup> Human Rights Committee, general comment No. 22 (1993), para. 4.

<sup>12</sup> Act C of 2012 on the Criminal Code, chap. XXI, sect. 371 (3); and Act II of 2012 on infractions, infraction procedure and the infraction records system, sect. 188.

<sup>13</sup> See communication HUN 5/2018.

## **B. Role of and financial support to religious communities**

30. The revised Church Law introduced a four-tiered system of legal recognition of religions or beliefs, with the process for attaining “established church” status remaining highly restrictive (see para. 17 above). The categories are “established churches”, “registered churches”, “listed churches” and “religious associations”. “Established churches” enjoy full legal status and the benefits of State support, such as financial assistance for religious activities, tax exemptions and “comprehensive agreements” with the State, releasing significant subsidies and funding for the religious schools, hospitals and social institutions run by them. The Roman Catholic Church, the Reformed Church of Hungary and the Evangelical Lutheran Church, among others, have long-standing agreements, while other minority religious groups have not enjoyed such support. In 2018, for example, the Government of Hungary allocated approximately 14 billion forints (\$50 million) in State funds to support “established churches”, while smaller groups relied on private donations and community support.

31. In order to achieve “established church” status, groups must undergo a complex registration process requiring approval by a two-thirds majority vote in Parliament. This has been criticized for politicizing registration, which should be based on objective criteria.

32. A minimum number of members and a proven historical presence in Hungary are required criteria for any type of religious registration. “Religious associations”, such as Jehovah’s Witnesses, face legal and financial hurdles and report difficulties in gaining access to public funds for community activities and maintaining meeting places, as do other smaller or newer organizations such as some Buddhist, Hindu and Jewish groups.

33. Some actors justified a preferential funding regime for some religious organizations as serving to partially remedy the historical injustice to their communities and the loss of previous substantial assets (cultural and financial), and even the devastating loss of human life, during communist rule, for which there was no full restitution. Nevertheless, the Special Rapporteur notes that this should call for a transparent and objective process, rather than a tiered system of religious recognition in perpetuity.

34. Further to concerns about discrimination, the objections to the tiered system that were reported were clustered around solidarity, autonomy and mission. The system reportedly prevents solidarity between and within religious communities across tiers and creates division between different denominations or communities of the same religion that find themselves differentially recognized in higher or lower tiers, or with some recognized and others not. State funding can also reportedly compromise church autonomy and mission. While some religious actors welcome funding for religious schools, hospitals and social institutions – and for many such State facilities becoming church-run – others deeply regret it for entangling them in complex professional services for which they are not best equipped, distracting them from their core spiritual missions and independent voice, and compromising their perceived neutrality and independence from the State.

35. Civil society organizations pointed out the human rights consequences of a State-run service facility being transferred to becoming church-run, for those who hold other beliefs, for minority religions and beliefs, including humanists and atheists, and for those who want to see the role and accountability of the State or municipalities for such services to be strengthened. In short, and regardless of intentions, the extensive State-church funding relationships can set up patrimonial relationships that lead to human rights concerns and challenges around transparency and accountability. There was a strong call by numerous actors for greater neutrality and transparency in open tenders for running such services, and for greater oversight over financial flows, free of any arbitrariness and politicization.

36. Religious organizations can also be relegated within the four-tier system, losing related benefits and subsidies. In this respect, the Special Rapporteur examined the situation of the Hungarian Evangelical Fellowship, led by the pastor Gábor Iványi, which originally ran a considerable number of charitable institutions, including 63 schools, care homes and homeless shelters in the poorest communities in the country. The Fellowship lost its “established church” status through the 2011 Church Law and has faced severe financial difficulties, losing government funding for its schools and social institutions such as

homeless shelters. Despite appealing to both domestic courts and being one of the complainants in the 2014 European Court of Human Rights case referred to in paragraph 18 above, the church has yet to regain its standing. In 2017, the European Court of Human Rights ordered Hungary to pay 1 billion forints (€3 million) compensation to the Fellowship.<sup>14</sup>

37. In 2021, the charitable status of the Hungarian Evangelical Fellowship was reinstated for the purpose of receiving donations through income taxes, and it became a tier 2 “registered church”. However, the Government has discontinued its funding of social and educational institutions operated by the Fellowship. Many of these institutions have had to close and the Fellowship faces bankruptcy. A spokesperson for the Fellowship said that that was not just an administrative violation but one of religious freedom, as the church was prevented from properly carrying out the charitable work inherent to its religious identity.

### C. Discrimination on the basis of religion or belief

38. Article XV of the Constitution establishes the principle that all individuals should be treated equally and fairly, comprehensively prohibiting discrimination on various grounds, including religion. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief defines “intolerance and discrimination based on religion or belief” as “any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis” (art. 2).

39. While the 2018 amendments to the Church Law (see para. 19 above), introduced some positive changes, they did not fully address the discriminatory aspects of the law, and further reforms are needed to ensure that all religion and belief communities can operate without discrimination.

40. The Human Rights Committee has clarified whether distinctions in State funding for different religious organizations constitutes discrimination. In a case relating to school funding for one religious school but not another, it found that “the fact that a distinction is enshrined in the Constitution does not render it reasonable and objective” or render it non-discriminatory. It further found that the historical disadvantage of a religious community was not sufficient and the assessment needed to be carried out at the present time in relation to the specific matter at hand. Any distinctions needed to be based on objective and reasonable criteria in order not to lead to discrimination (International Covenant on Civil and Political Rights, art. 26). The Committee observed that the Covenant “does not oblige States parties to fund schools which are established on a religious basis. However, if a State party chooses to provide public funding to religious schools, it should make this funding available without discrimination”.<sup>15</sup> Since the different funding was not based on reasonable and objective criteria, it was found to be discriminatory.

41. As noted in paragraph 21 above, in 2021, the Equal Treatment Authority was disbanded and integrated into the Office of the Commissioner for Fundamental Rights. The Equal Treatment Authority was an autonomous public administrative body responsible for ensuring compliance with the principle of equal treatment and non-discrimination. It could investigate complaints of unequal treatment, initiate lawsuits in defence of victims, provide opinions on regulations concerning equal treatment, keep the public informed and provide information and assistance to the public. Special procedure mandate holders relayed their concern that its disbandment could considerably reduce the level of protection against discrimination.<sup>16</sup>

<sup>14</sup> *Magyarországi Evangéliumi Testvérközösség v. Hungary*, Application No. 54977/12, Judgment, 25 April 2017.

<sup>15</sup> *Waldman v. Canada* (CCPR/C/67/D/694/1996), paras. 10.4 and 10.6.

<sup>16</sup> See communication HUN 1/2021.

42. During her meeting with the Commissioner for Fundamental Rights, the Special Rapporteur received information on his duties and powers and his activities to protect the rights of vulnerable groups. She was also informed that the integration of the Equal Treatment Authority into the Office of the Commissioner for Fundamental Rights had expanded the Ombudsman's mandate to include sanctioning powers and had broadened its legal authority to protect human rights, enabling the Commissioner to address a wider range of human rights issues beyond traditional ombudsman functions. It was clarified that requests related to religion or beliefs represented a small proportion of the cases handled annually; the majority of equal treatment complaints were related to disability, motherhood and pregnancy. However, the Special Rapporteur regrets that she did not receive any specific information or examples of jurisprudence related to religion or belief requests.

## D. Intolerance and hate crimes

43. According to article 20 (2) of the International Covenant on Civil and Political Rights, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law. Hungarian law criminalizes hate speech, protects minority groups and includes penalties for inciting hatred.

44. Article 216 of the Hungarian Criminal Code criminalizes behaviour that threatens communal harmony by imposing penalties for acts of assault or coercion based on group membership, whether perceived or actual, along with additional factors such as disability, gender identity or sexual orientation. Under article 332 of the Criminal Code, "A person who, in front of a large audience, incites to violence or hatred against ... a religious group" is guilty of a felony. The Constitution safeguards the dignity of such groups. Article IX.5 of the Constitution prohibits the right to freedom of speech being exercised with the aim of "violating the dignity of any ... religious community" and provides persons belonging to such communities with the entitlement to enforce claims against such violations in court. The Constitution also prohibits Holocaust denial, genocide minimization and public display of symbols associated with Nazi and communist regimes. The media law bans content that incites hatred or violence.

45. In its most recent review of Hungary, the Committee on the Elimination of Racial Discrimination expressed its deep alarm at the prevalence of racist hate speech in the State party against Roma, migrants, refugees, asylum-seekers and other minorities, which fuelled hatred and intolerance and at times incited violence towards such groups, in particular from leading politicians and in the media, including on the Internet. It also expressed its deep alarm at reports that public figures in the State party, including at the highest levels, had made statements that might promote racial hatred, in particular as part of the Government's anti-immigrant and anti-refugee campaign, which had started in 2015.<sup>17</sup>

46. The prevalence of hate speech in Hungarian society was brought up by a range of actors during the visit. Examples were given of hate speech attacking Roma, LGBTIQ+ persons, persons who are unemployed and persons living in poverty. Some actors described the range of religious minorities who were repeatedly demonized in the media. In her report on her visit to Hungary in 2021, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression highlighted serious concerns regarding the "State-orchestrated campaigns of fearmongering, scapegoating and stigmatization" faced by human rights defenders, journalists, lesbian, gay, bisexual and transgender rights activists and those working for refugees and migrants.<sup>18</sup>

47. The Special Rapporteur received reports that authorities were hesitant to classify incidents as hate crimes. She received some criminal statistics on hate crimes in police proceedings for the period 2019–2023 that indicated a total number of 106 such crimes. These were classified as violence against a member of a community, and a few related to incitement against a community, but there were no violations of freedom of conscience and religion. Although she also met with representatives of the Public Prosecutor's Office, she regrets that

<sup>17</sup> CERD/C/HUN/CO/18-25, para. 16.

<sup>18</sup> A/HRC/50/29/Add.1, para. 63.

she did not receive information on any investigations, prosecutions or convictions for racist hate speech, especially by public figures and politicians. She was subsequently informed that the reason for the lack of statistics was that no prosecutions for such offences had been carried out between 2019 and 2023.

## **E. Educational, social service and health sectors**

48. Since 2010, a wide range of State duties in education, social services and health services have been transferred to various churches.

49. The Special Rapporteur underlines that a human rights enquiry into this matter is not to question the quality of commitment or care offered by churches, but to raise questions regarding inclusion, equal access, transparency, accountability and the human rights of all concerned, whether patients, employees, school management, children or parents or guardians.

### **1. Education**

50. The main objective of the 2021 Public Education Strategy is to provide for the development of and support to underperforming and disadvantaged students in formal education.

51. Section 2 of Act CCVI of 2011 (as amended) establishes that parents or guardians have the right to decide on the moral or religious upbringing and religious education of their minor children, and to provide for it accordingly. Under section 3, the exercise of freedom of conscience and religion is to be made possible for those cared for in educational institutions.

52. Public schools in Hungary are mandated to provide one hour per week of faith or ethics education for children in grades 1–8, with parents choosing between classes from a tier 1 “established church” course or an ethics course. Other religious groups are allowed to offer optional extracurricular education. Private schools are not required to offer faith or ethics classes.

53. Since the education reform in 2013, only schools run by tier 1 “established churches” receive an automatic subsidy for operating expenses or full funding by the State, depending on the number of students. Other religious groups are able to apply to open schools and to receive a subsidy for employee salaries. The Special Rapporteur was informed that church schools could make their faith education class mandatory without offering ethics as an alternative.

54. Before 2010, there were two streams of funding for municipal schools: normative State funding and funding from the municipality. Church schools were not receiving the municipal funding and complained. The Government therefore opened up a second equivalent stream of funding for church schools to equalize the funding. After 2010, the second stream kept increasing, widening the gap between the funding to municipal schools and church schools, in effect making the latter better funded. As a result, schools and other educational facilities (from kindergartens to universities, academic or vocational) run by churches enjoy greater funding than non-church-run ones.

55. The law stipulates that once 50 per cent of parents sign a petition and the Ministry of Interior approves it, public schools can be transferred to any religious group with legal status. Since 2014, the number of schools run by religious organizations has doubled: 260,000 children (16 per cent) study in church-run schools. In smaller areas, a church school may be the only accessible option for students. Such schools are allowed to discriminate in their selection of pupils on grounds of religious affiliation and can deny admission due to their selection policy; this can result in both lack of access to education and segregation, in particular for Roma children, children with disabilities and children with other religions or beliefs. The Committee on the Rights of the Child noted with concern that the allocation of

public education to church-run schools could lead to segregation based on religion or belief.<sup>19</sup> Many civil society organizations have described this as resulting in racial and social discrimination with the full knowledge and support of the State.

56. The Special Rapporteur notes with concern the historical discrimination against Roma people in education, with 51 per cent of Roma children dropping out while still in compulsory school.<sup>20</sup> Government officials have blamed Roma children for lowering State exam results, citing “integration difficulties” as the cause;<sup>21</sup> however, it is claimed that, in reality, Roma children are disproportionately placed in special education and are victims of an education system that fails to support them.

57. In 2023, the European Court of Human Rights found that Hungary had violated the right to non-discrimination and that a Roma boy had been the subject of racial segregation in school. The Court strongly recommended that the State develop a policy against segregation in education.<sup>22</sup> In its most recent review of Hungary, the Committee on the Elimination of Racial Discrimination registered its serious concern about the persistent discrimination, segregation and extreme poverty faced by the Roma community.<sup>23</sup>

58. On 28 March 2017, the Government introduced a bill, which was subsequently adopted as the 2017 law on higher education, targeting universities with foreign ties and preventing Hungarian-accredited universities linked to foreign universities from delivering programmes or issuing foreign degrees and prohibiting Hungarian diplomas from being accredited outside the European Union without a binding international agreement. United Nations experts raised concerns that the law created obstacles for foreign academic institutions to operate in Hungary and restricted academic freedom.<sup>24</sup>

## 2. Social services

59. Over the past two decades, a wide range of State duties related to social services have been handed over to churches, including homes for older persons and for persons with disabilities. Only churches have all their costs reimbursed through the central State budget: municipalities and private providers have to find additional funding sources. Funding criteria are not transparent, and institutions maintained by churches are not obliged to publish annual financial statements. This reduces options, and risks discrimination, for those who may prefer access to services that are not affiliated to a religion.

60. Some 74 per cent of child protection care is church-run. Although the law requires employers to check whether new employees are listed on the sex offenders’ register, church employees are reportedly exempt from this requirement, meaning that children in church-run care receive less protection. The supervision of the networks of foster parents has also changed from being State-run to being church-run. Most are run by the child protection service of the Catholic diocese of Szeged-Csanád, the Saint Agatha Foundation, and some by the Reformed Church.

61. The Hungarian Catholic Church has reportedly appointed a Church official for child protection in at least one diocese and has introduced a course on child protection into the curriculum for the training of priests. However, given the Attila Pető case, which involved a former altar boy who had been abused and then sued by the Church,<sup>25</sup> and other cases, more robust action is needed to ensure that children are not at risk of sexual abuse.

<sup>19</sup> CRC/C/HUN/CO/6, paras. 35 (b) and 36 (b).

<sup>20</sup> European Union Agency for Fundamental Rights, *Roma Survey: Data in Focus – Education: the Situation of Roma in 11 EU Member States* (Luxembourg, Publications Office of the European Union, 2014), p. 24.

<sup>21</sup> See <https://www.errc.org/news/hungary-government-minister-blames-gypsy-children-for-national-decline-in-reading-competence>.

<sup>22</sup> *Szolcsán v. Hungary*, Application No. 24408/16, Judgment, 30 March 2023, para. 81.

<sup>23</sup> CERD/C/HUN/CO/18-25, para. 20.

<sup>24</sup> See communication HUN 1/2017.

<sup>25</sup> See <https://helsinki.hu/en/former-altar-boy-abused-and-then-sued-by-the-church/>.

### 3. Health

62. Medical services during pregnancy and birth are free. Health insurance does not cover contraceptives. Emergency contraception is available only on prescription, causing delays that lower its effectiveness. Access to voluntary sterilization is restricted to persons who are aged over 40 or have at least three children. Non-married women are excluded from the State-funded assisted reproduction programme.

63. Although abortions have been legal since 1953, they are difficult to access. Abortions are possible only after attending two counselling sessions with State officials who have a duty to dissuade the applicant from abortion. “Medical abortions” have not been available since 2012, meaning that women seeking terminations must undergo a more invasive surgical procedure. The Constitution refers to the protection of the foetus from conception (art. II) and, reportedly, the Government awards hospitals who refuse to carry out abortions. Some interlocutors raised concerns that abortion may be criminalized in the future.

## F. Challenges arising in the context of immigration and asylum-seekers

64. Hungary is party to the Convention relating to the Status of Refugees and the Protocol thereto. Article XIV.4 of the Constitution establishes that asylum-seekers who are persecuted or have a well-founded fear of religious persecution in their country of origin or residence shall be granted asylum.

65. Applications for asylum increased sharply in 2016, with some 30,000 applications. The Government declared a “crisis”, xenophobic comments were made by some senior public officials and an extremely strict – and much criticized – asylum framework was developed. In October 2016, the Government initiated a national referendum concerning the European Union relocation plan, under which Hungary was required to accept 1,294 asylum-seekers. Voter turnout was too low for the results to be valid, but 98 per cent of voters rejected the European Union quota.<sup>26</sup>

66. Hungarian policy on migration has rightly been criticized for falling short of legal obligations, with the asylum process hindering effective access to protection. In 2019, the Committee on the Elimination of Racial Discrimination expressed deep concern at reports that the principle of non-refoulement was not fully respected in law or in practice and expressed deep alarm at the reported excessive use of force and violence by law enforcement officers against third-country nationals found anywhere in Hungary, while pushing back those found near the border to Serbia, resulting in injuries and bodily harm.<sup>27</sup>

67. The Special Rapporteur on the human rights of migrants visited Hungary in 2019. In his report, he highlighted the lack of procedural safeguards against refoulement and noted that asylum-seekers whose applications had been rejected were held in (now closed) “transit zones” and threatened with deportation to their countries of origin, where they might face persecution without having the merits of their claims examined on an individual basis.<sup>28</sup>

68. The European Union has consistently rebuked Hungary for its asylum procedures and the European Court of Human Rights has issued a multitude of judgments against Hungary regarding migration policies, the detention of asylum-seekers, pushbacks and ineffective investigations into police violence against asylum-seekers.<sup>29</sup>

<sup>26</sup> See <https://minorityrights.org/country/hungary>.

<sup>27</sup> CERD/C/HUN/CO/18-25, para. 24.

<sup>28</sup> A/HRC/44/42/Add.1, para. 47.

<sup>29</sup> *M.H. and S.B. v. Hungary*, Applications No. 10940/17 and No. 15977/17, Judgment, 22 April 2024; *S.S. and Others v. Hungary*, Applications No. 56417/19 and No. 44245/20, Judgment, 12 October 2023; *Alhowais v. Hungary*, Application No. 59435/17, Judgment, 2 February 2023; and *H.M. and Others v. Hungary*, Application No. 38967/17, Judgment, 2 June 2022.

69. On 17 December 2020, the European Union Court of Justice ruled that Hungary had failed to comply with European Union rules on the treatment of migrants by unlawfully detaining asylum-seekers and deporting them before they could appeal the rejection of their applications, ordering the Government to make changes to its policies.<sup>30</sup> In July 2024, the Court ordered Hungary to pay €200 million and a penalty payment of €1 million per day from the date of delivery of the judgment until the date of compliance with the judgment of 17 December 2020.<sup>31</sup>

70. Despite the Court of Justice's ruling against the restrictive asylum practices in Hungary, restrictions on asylum applications continue, except for the 43,403 Ukrainian refugees granted temporary protection after the invasion in 2022 by the Russian Federation.<sup>32</sup>

71. The Special Rapporteur on the human rights of migrants noted that high-level government figures had made discriminatory statements about migrants and that the Government's approach to the governance of migration was security-oriented.<sup>33</sup> The Committee on the Elimination of Racial Discrimination also expressed alarm at reports that public figures at the highest levels had made statements that could promote racial hatred.<sup>34</sup> The leadership and pro-government media continue to use rhetoric defending "Christian Europe" against Muslim migrants and refugees.<sup>35</sup>

72. The previous Special Rapporteur on freedom of religion or belief noted that, after the European Union pledge to resettle additional refugees, Hungary, along with other European Union member States, had announced that it would favour admitting non-Muslim refugees, particularly Christians, citing concerns about "cultural cohesion".<sup>36</sup> Various interlocutors confirmed that Christians received special treatment in the asylum process. The Special Rapporteur notes the broad range of development assistance offered by the Hungary Helps Programme internationally to religious minorities and the sensitivity demonstrated by Hungary to Christian persecution in international forums. These activities should be "brought home" and undertaken domestically, for example, with regard to the offer of international protection on Hungarian territory to those escaping religious persecution and to the attention paid to religion and belief minorities in Hungary.

## G. Traditional values, family, and sexual orientation and gender identity

73. The ninth constitutional amendment, passed in December 2020, limits the definition of "families" to married couples and parents as: "The mother shall be a woman, the father shall be a man" (art. L (1)). This presents "traditional" gender roles as eternal. Although same-sex civil partnerships have been legal in Hungary since 2007, the 2011 Constitution restricted marriage exclusively to opposite sex couples (art. L). Under Act CLXV of 2020 modifying Act No. V of 2013 on the Civil Code and Act No. XXXI of 1997 on child protection, only married couples are eligible to apply for adoption, effectively banning all non-married persons from adopting. In exceptional cases, the Minister of Justice may permit an adoption by an unmarried person. Older children, children with disabilities and Roma children often only find non-married persons willing to adopt them, so this regulation can restrict the most vulnerable children from finding a family.

74. The personal income tax system heavily subsidizes "traditional families". A couple raising three children receives a monthly tax benefit 600,000 forints, which is almost twice the median monthly salary before taxes (320,000 forints in 2020), and mothers who have at

<sup>30</sup> *European Commission v. Hungary*, Case No. C-808/18, Judgment.

<sup>31</sup> *Commission v. Hungary*, Case No. C-123/22, Judgment, 13 June 2024.

<sup>32</sup> See <https://data.unhcr.org/en/documents/details/115739>.

<sup>33</sup> A/HRC/44/42/Add.1, paras. 5 and 6.

<sup>34</sup> CERD/C/HUN/CO/18-25, para. 16.

<sup>35</sup> See [https://www.state.gov/wp-content/uploads/2024/02/528267\\_HUNGARY-2023-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2024/02/528267_HUNGARY-2023-HUMAN-RIGHTS-REPORT.pdf).

<sup>36</sup> A/HRC/49/44, para. 51.

least four biological or adopted children and raise them in their own household for at least 12 years are granted lifetime exemption from paying the 15 per cent income tax on their salary.

75. In 2018, United Nations experts noted with concern that the Government had decertified and defunded the teaching of the subject of gender studies at institutions of higher education,<sup>37</sup> thereby restricting academic freedom and having a negative effect on the pursuit of equality for women and girls in Hungary.

76. In May 2020, the Hungarian Parliament blocked the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, having signed it in 2014, saying that it promoted “gender ideology” and “illegal migration”.<sup>38</sup> The Committee on the Elimination of Discrimination against Women criticized that decision.<sup>39</sup>

77. In May 2020, the Parliament passed a new law, making it impossible for transgender or intersex people to legally change their gender – putting them at risk of harassment, discrimination and even violence when they need to use identity documents. The Council of Europe Commissioner for Human Rights called the law “an affront against the rights and identities of LGBTI persons” and stated that the “proposed legislative amendments run counter to international and European human rights standards”.<sup>40</sup> In 2020, an Act was passed ruling that sex assigned at birth based on primary sexual characteristics and on chromosomes may not be changed.<sup>41</sup> Applications for legal gender change had de facto been refused since 2018. It was noted in the ninth constitutional amendment, from December 2020, that “Hungary shall protect the children’s right to an identity corresponding to his or her sex at birth and ensures an upbringing for them that reflects the values based on Hungary’s constitutional identity and Christian culture”.

78. A 2021 amendment to child protection legislation forbids making available content that “promotes or depicts divergence from the identity corresponding to the sex designated at birth, sex modifications and homosexuality” to persons aged under 18. This includes religion or belief groups that are inclusive of lesbian, gay, bisexual, transgender and intersex persons.

79. During her visit, the Special Rapporteur heard numerous concerns about LGBTIQ+ rights stalling in Hungary and the increasingly open denunciation of such rights by politicians. The previous Special Rapporteur also raised concerns about discrimination against lesbian, gay, bisexual and transgender persons in the name of religion or belief in Hungary.<sup>42</sup>

## H. Enjoyment of freedom of religion or belief in detention settings

80. Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule that must be applied without distinction of any kind, including on the basis of religion or belief. The Special Rapporteur recalls that the dangers of discrimination, in institutionalized form or through discriminatory practices, are much greater in the closed conditions of a detention facility.<sup>43</sup>

81. Multiple soft-law instruments elucidate the obligation of public authorities to respect the right to freedom of religion or belief of persons deprived of their liberty. Rule 2 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) sets out that persons deprived of liberty shall not face discrimination on different

<sup>37</sup> See communication HUN 6/2018.

<sup>38</sup> See [https://www.europarl.europa.eu/doceo/document/E-9-2020-002981\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-002981_EN.html).

<sup>39</sup> CEDAW/C/HUN/CO/9, paras. 11 and 12.

<sup>40</sup> See <https://www.coe.int/en/web/commissioner/-/commissioner-mijatovic-urges-hungary-s-parliamentarians-to-reject-draft-amendments-banning-discussion-about-sexual-and-gender-identity-and-diversity>.

<sup>41</sup> Act No. XXX of 2020 amending Act No. I of 2010, para. 33.

<sup>42</sup> See communication HUN 3/2020.

<sup>43</sup> A/64/159, para. 21.

grounds, including religion, and that “the religious beliefs and moral precepts of prisoners shall be respected”. Rules 65 and 66 recognize that the religious beliefs of prisoners should be respected, and that relevant principles should be applied without distinction as to religion or religious belief.

82. The Human Rights Committee has confirmed that “treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule without distinction as to religion or other status”.<sup>44</sup> Moreover, the Committee has commented on the permissible limitations on freedom of religion or belief where persons are deprived of their liberty: “persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.”<sup>45</sup>

83. The Special Rapporteur’s visit highlighted a number of problems regarding the realization of freedom of religion or belief in detention settings, including in relation to burial-related rights, worship, diet and access to religious guidance or chaplaincy.

84. Burial-related rights for detainees consist of three main elements: (a) farewell to the dying person; (b) attending the funeral; and (c) visiting the grave. In Hungary, interlocutors reported a “security above all” consideration, with excessive discretionary powers given to prison officials and a lack of access to appropriate individual assessments. A number of NGOs also expressed concerns at what they described as the lack of adequate protection of detainees by the Commissioner for Fundamental Rights.

85. Although the law stipulates that the exercise of rights related to the death of a close relative must be guaranteed by the prison, in practice less than one quarter of applications are granted (including online attendance). According to information from 2023 made available to the Special Rapporteur, visiting a dying relative was allowed in 9 per cent of cases, attending a funeral in 24 per cent of cases and visiting a grave afterwards in 9 per cent of cases. By law, the director of a prison may refuse funeral attendance only in exceptional cases. However, exceptional cases are not defined, there is no deadline for the assessment, procedures seem to be prolonged, unrestricted discretion remains a systemic issue, there is no access to appropriate individual assessment and there is an overly restrictive interpretation of who can be considered a relative.

86. The Special Rapporteur notes that the time between death and burial is often very short, particularly for religious reasons. She heard reports of attendance only being permitted in a humiliating way (e.g. in uniform and handcuffs), that some requests had been considered only after the funeral and that some detainees had been required to cover all related expenses. In short, systemic violations of burial-related rights for detainees, contrary to international human rights standards,<sup>46</sup> were reported.

87. The Special Rapporteur also heard reports of discriminatory distinctions between members of certain religions and others inside penitentiary institutions. A Muslim detainee was informed by the prison authorities that no Islamic care or Qur’anic education were available in the prison. Guards in another prison refused to point out the qibla, or direction, for Muslim prayer. Meals in prisons are often not in line with religious requirements (e.g. pork given to people of Jewish and Muslim faith; Krishna believers denied vegetarian meals for months; and fish given to a Buddhist, who was told that it fit a vegetarian diet). In cases where worship services are available, prisoners might not be escorted to them as a result of staff shortages. Degrading treatment or discrimination based on religious grounds and confiscation of devotional objects were also reported.

<sup>44</sup> General comment No. 21 (1992), para. 4.

<sup>45</sup> General comment No. 22 (1993), para. 8.

<sup>46</sup> Previous judgments of the European Court of Human Rights on funeral attendance include *Csász v. Hungary*, Application No. 14447/11, Judgment, 21 October 2014; *Pintér v. Hungary*, Application No. 39638/15, Judgment, 26 May 2020; and *Rigó v. Hungary*, Application No. 54953/21, Judgment, 4 March 2025.

88. Prison chaplains need to pass an exam on prison security rules. The provision of religious services by prison chaplains is highly constrained. The Hungarian Islamic community reportedly could no longer provide chaplaincy services in correctional facilities because of financial constraints. Prison chaplains are appointed by their church, but they are at the same time employed by the prison authority. They do not “belong” to either system, but are accountable to both, with administrative and other responsibilities. They do not receive any psychological, mental health or spiritual support, or supervision, leading to incidents of burnout.

89. Even the minimum conditions for pastoral care, for example, appropriate premises where chaplains can hold meetings, are lacking, so religious provision is very rare. In one prison, the local chaplain could only offer spiritual support to prisoners in a storeroom. Pastoral care for high-risk detainees in long-term detention is nearly impossible. Chaplains sit in front of the locked door, separated from the detainee for security reasons, so there is no privacy, as other detainees and guards can hear everything.

90. The Special Rapporteur underlines the obligation to ensure no discrimination against any prisoner or staff member. To prevent any potential abuse, detention facilities should be the object of intense public scrutiny and provide for effective complaints mechanisms.

91. As noted in paragraph 21 above, the Commissioner for Fundamental Rights was designated as the Hungarian national preventive mechanism under the Optional Protocol to the Convention against Torture in January 2015. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, during its visit to Hungary in 2017, expressed particular concern at the lack of functional independence of the national preventive mechanism within the Office of the Commissioner for Fundamental Rights, and the lack of adequate resources and funding for the national preventive mechanism.<sup>47</sup>

## **I. Conscientious objection**

### **1. Conscription and military life**

92. Conscientious objectors to military service are afforded constitutional protection, being permitted to perform “unarmed service” in lieu.<sup>48</sup>

### **2. Conscientious objection in other fields**

93. Doctors and healthcare professionals are not obliged to perform or assist in the performance of abortions, except in cases where there is a risk to the life of the pregnant woman.<sup>49</sup> Doctors must inform the healthcare provider in writing in advance if they do not wish to carry out certain procedures or must do so in writing without delay when the procedure is due to be performed. At least one abortion team must be provided in State and municipal institutions with obstetrics and gynaecology departments, ensuring that a doctor is available to perform the procedure.<sup>50</sup> In the hierarchy of medical ethics, the protection of life is the highest priority when a cause endangers the life of a pregnant woman. If a woman’s life can only be saved by an abortion, doctors cannot refuse to perform it, even if they have previously stated that they are unwilling to do so.

94. Pursuant to article 21 of Act CLIV of 1997 on Healthcare, any treatment that, if not received, would likely cause serious or permanent damage to the health of an incapacitated patient or a minor with limited capacity to act, may not be refused. The doctors may override the parents’ objection to a minor requiring life-saving care, such as a blood transfusion, and the institution may seek law enforcement assistance to enforce this. Criminal liability for the parent or legal representative may also arise under the statutory offence of endangering a

<sup>47</sup> CAT/OP/HUN/2, paras. 14 and 20–26.

<sup>48</sup> Constitution, art. XXXI (3).

<sup>49</sup> Act LXXIX of 1992 on the Protection of Fetal Life, art. 14.

<sup>50</sup> Ibid., art. 13 (2).

minor (Act C of 2012, Criminal Code), if treatment is refused for religious reasons or the patient is not admitted to a healthcare institution.

95. There are no established procedures for the circumcision of minors in Hungary. In practice, circumcision for health reasons is typically performed on minors in healthcare institutions, but there are no written professional guidelines for circumcision for religious reasons.

## **J. Civic space**

96. The Special Rapporteur met with representatives of a broad range of civil society organizations. Although Hungary is still home to a vibrant civil society, these actors expressed deep concerns regarding restrictions on them carrying out independent human rights work through restrictions on foreign funding and smear campaigns led by or associated with the Government against philanthropic individuals and organizations.

97. In June 2024, the Defence of National Sovereignty Act was reportedly used to subject Transparency International Hungary and the independent media outlet Átlátzó to investigations by the Office for the Defence of Sovereignty. The Special Rapporteur notes that the draft of that Act was the subject of a letter by special procedure mandate holders in December 2023.<sup>51</sup>

## **VI. Particular impacts on various sectors of society**

### **A. Anti-Muslim hatred**

98. While noting that the Government has joined two recent international statements to combat anti-Muslim hatred, the Special Rapporteur notes with concern that anti-Muslim hatred, or Islamophobia, and discrimination against Muslims remain widespread in Hungarian society. United Nations human rights mechanisms continue to raise concerns about reported discrimination, xenophobia and intolerance, including hate crimes and online hate speech, against Muslims and other religion or belief minorities. Regrettably, the pattern of anti-Muslim rhetoric has also stemmed from high-level officials, especially in linking strong anti-migrant rhetoric with anti-Muslim hatred, defending “Christian Europe” against Muslim immigration. It was reported that, while physical assaults were rare, verbal insults were frequent, in particular against women wearing headscarves, persons with darker skin and persons speaking foreign languages.

99. In his 2021 report on countering Islamophobia, the former Special Rapporteur on freedom of religion or belief noted that the European Commission had challenged the “stop Soros” package of laws in Hungary, which had been designed to prevent NGOs from aiding migrants from Muslim countries – referred to as “Muslim invaders” – and imposed 25 per cent higher taxes on organizations “supporting immigration”. Also in that report, the Special Rapporteur referenced survey data from countries including Hungary that demonstrated the economic exclusion and discrimination faced by Muslims in accessing goods and services, in public transport, airports, administrative offices, shops and restaurants.<sup>52</sup>

<sup>51</sup> See communication HUN 1/2023.

<sup>52</sup> A/HRC/46/30, paras. 30, 31 and 43.

## B. Antisemitism

100. According to the 2022 census, 7,635 individuals identified their religion as Judaism (compared with 10,965 in the 2011 census), although estimates from the World Jewish Congress place the Hungarian Jewish community at 47,200, the largest in eastern Central Europe.<sup>53</sup>

101. Even though Hungary has declared a zero-tolerance policy on antisemitism, surveys demonstrate its prevalence across the country, often as coded hate speech, revealing deep-seated prejudice and discriminatory attitudes towards Jews. Incidents of the glorification, by State officials and on social media, of historical figures associated with antisemitism also persist in the country.

102. A survey of 10 European countries released by the Anti-Defamation League showed that 37 per cent of Hungarian citizens held antisemitic views. The 2022 regional antisemitism survey by the Budapest-based NGO Tom Lantos Institute concluded that 49 per cent of the 1,849 respondents in Hungary could be classified as moderately or strongly antisemitic.<sup>54</sup> The antisemitism survey carried out in 2023 by the European Union Agency for Fundamental Rights showed that 65 per cent of the 1,338 respondents in Hungary considered antisemitism a big problem, below the survey average of 84 per cent. Among those survey respondents, 27 per cent had experienced antisemitic harassment; 25 per cent claimed to never wear Jewish symbols in daily life because of safety concerns; and 20 per cent thought that the Government combated antisemitism effectively.<sup>55</sup>

103. In 2022, domestic and international extremist and neo-Nazi groups marked the anniversary of the breakout attempt by Hungarian and German troops on 11 February 1945 during the Soviet army's siege of Budapest. The Special Rapporteur learned that police had halted a "day of honour" event planned for 11 February on the grounds that the organizer had misled authorities regarding the nature of the commemoration. Despite the police ban, the media reported that several hundred extreme-right and neo-Nazi sympathizers had gathered in the Buda Castle. Police successfully prevented them from clashing with Hungarian and international counter protesters in that area; however, police reported violence between anti-fascist demonstrators and extreme right sympathizers elsewhere in the city.<sup>56</sup>

104. Campaigns, with strong underlying antisemitic messaging, regularly accuse George Soros, the 94-year-old Budapest-born billionaire investor and philanthropist, of encouraging mass immigration to "undermine" Europe.<sup>57</sup> For instance, pro-government posters before the 2018 general election portrayed him, with strong antisemitic messaging, laughing; the posters read "99 per cent reject illegal immigration", and "Don't let Soros have the last laugh". Interlocutors highlighted such campaigns as pandering to, and fuelling, the public's antisemitic prejudices.

105. There are reports of internal disagreements within the Jewish community. The Special Rapporteur met with the various Jewish groups during her visit; some were recognized as tier 1 established churches and others were not recognized. The Federation of Hungarian Jewish Communities asserted that it represented 90 per cent of the country's Jewish population. Smaller Jewish groups painted a very different picture. In 2021, two orthodox groups (the Autonomous Orthodox Jewish Community of Hungary and the Unified Hungarian Jewish Congregation) took action in an Israeli court in relation to restitution repayments in a dispute with the Federation. The Special Rapporteur also heard reports of an ongoing dispute concerning real estate among some of these groups.

<sup>53</sup> See <https://www.worldjewishcongress.org/en/about/communities/HU>.

<sup>54</sup> See <https://www.tomlantosinstitute.hu/files/en-205-sapvc-20220420-done-rc-online-new.pdf>.

<sup>55</sup> See [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2024-experiences-perceptions-antisemitism-survey\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-experiences-perceptions-antisemitism-survey_en.pdf).

<sup>56</sup> See <https://www.state.gov/reports/2023-report-on-international-religious-freedom/hungary/>.

<sup>57</sup> See communication HUN 2/2018.

## C. Atheists and humanists

106. In the latest census, 44 per cent of Hungarians declared their religious affiliation, and Hungary is officially a secular State. However, the Government systematically gives preference to tier 1 “established churches” in policy and practice. Considerable government support is provided for activities ran by “established churches”. Given the autonomy of religious communities, in contrast to other types of organizations, the amount of taxpayers’ money granted to churches through funding schemes and ad hoc decrees from Government, ministries and local government is unclear, as is the amount that may be used for the promotion of religious views.

107. In this respect, the Special Rapporteur noted concerns expressed by a variety of stakeholders that non-religious persons, atheists and humanists suffer overall systemic discrimination and disadvantage, which is perpetrated by government officials, public institutions and even the judiciary, and also by non-State actors.

108. As noted previously, Hungarian legislation enables individuals to make a voluntary contribution of 1 per cent of their personal income tax to a religious community that is recognized for this purpose and a further 1 per cent to an NGO. This results in financial discrepancy for non-religious associations that provide the same public service activities as religious ones.

109. In 2022, special procedure mandate holders expressed concern about the alleged unlawful dismissal of a civil servant (Gáspár Békés) by Budapest City Hall.<sup>58</sup> His dismissal appeared to relate to the legitimate exercise of his right to freedom of opinion and expression and his right as an atheist not to profess any religion. He received public criticism from high-level officials and death threats from the public on social media subsequent to expressing opinions about the banning of child baptism. The special procedure mandate holders expressed concern over the apparent lack of due diligence and sufficient investigation from the authorities. In its response to the communication, the Government claimed that Mr Békés’ dismissal was by the Budapest Municipal Authority, not by any government body, and referred the mandate holders to the Mayor’s office. During her visit, the Special Rapporteur raised the matter with representatives of that office.

## VII. Recommendations

110. In the light of the foregoing, the Special Rapporteur recommends that the Government:

(a) **Revisit the 2011 Church Law and its 2018 amendments to ensure that all religion and belief communities, institutions and actors can operate freely, without discrimination, with particular attention to legal and financial restrictions on their activities;**

(b) **Address concerns arising from the tiered religion recognition policy, in particular regarding harms to solidarity between and within religious communities and the risk of compromising their autonomy and ability to maintain neutrality and independence from the State;**

(c) **Review all laws, legislation and practices in order to identify provisions, processes and procedures that may perpetuate discrimination based on religion or belief, noting that this requires an end to all “distinction, exclusion, restriction or preference based on religion or belief” and all “nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis”.<sup>59</sup> Privileging certain groups, tiering and differential access to State benefits and public funding run counter to this;**

<sup>58</sup> See communication HUN 1/2022.

<sup>59</sup> Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, art. 2 (2).

(d) Conduct a thorough review of the current functioning and effectiveness of the Hungarian national human rights institution, following the integration of various rights protection bodies into the Commissioner for Fundamental Rights, with a view to demonstrating functional independence and autonomy, ensuring compliance, addressing human rights issues or referring them to the Constitutional Court and conducting inquiries into the activities of all other government entities, allow the national human rights institution to regain A status and allocate adequate human and financial resources to the national human rights institution;

(e) Ensure, if and when social institutions are changed from being State-run to being church-run, that its obligations towards the human rights of all concerned, including employees, students and patients, are upheld. Church-schools should, *inter alia*, offer ethics as an alternative and not make their faith classes mandatory and should ensure that admission is not denied *de facto* to Roma children, children with disabilities or children who hold other religions or beliefs;

(f) Ensure access to reproductive health services for all without discrimination;

(g) Ensure equal protection (including child protection), accountability and financial transparency in church-run services, whether in education, health, child protection or other social institutions;

(h) Equalize financial flows to municipalities and church-run and civil society organization-run social institutions and review bids to run such services with due care, ensuring they are open to all without arbitrariness or politicization;

(i) Take effective measures to improve reporting, investigation, prosecution and punishment of religiously motivated hate crimes, including hate speech and physical attacks against Muslims, Jews and Roma, in accordance with its obligations under the International Covenant on Civil and Political Rights, whether the actors are State officials or actors or not;

(j) Strengthen efforts to eradicate stereotyping and discrimination, *inter alia*, the demonization and stigmatization of LGBTIQ+ persons, persons who are unemployed, persons living in poverty, human rights defenders and journalists, and those advancing the rights of migrants;

(k) Confront the discriminatory anti-migrant and racist rhetoric that has marred the political and media space, put asylum-seekers at risk of refoulement and created a climate conducive to disinformation campaigns that at times have even been government-sponsored;

(l) Develop action plans to effectively combat the antisemitism, anti-Muslim hatred and other intolerance and hatred in Hungary – including hate crimes that target women and hateful discrimination on social media and in political rhetoric – that risk becoming normalized and institutionalized;

(m) Advance and ensure the freedom of thought, conscience, religion or belief of atheists and humanists, and their equal enjoyment of all rights, including their freedom of opinion and expression, addressing discrimination faced in various areas of life;

(n) Ensure that freedom of religion or belief is upheld in detention settings, including in relation to worship, diet, access to religious guidance and chaplaincy and burial-related rights;

(o) Raise awareness about the interrelationship between article 18 of the International Covenant on Civil and Political Rights, other human rights and the fundamental laws of Hungary among judges, lawyers, prosecutors and public officials at the national, municipal and local levels. Build capacity in all authorities to recognize and counter violations of religion or belief and provide redress and do so within the context of opening up civic space, progressing the rule of law, lifting restrictions on civil society organizations and the media, including regarding foreign funding, and ending intimidation against them.

**111. The Special Rapporteur recommends that non-State actors, including religion or belief actors, place non-discrimination, compassion and solidarity at the heart of their orientation and actions and hold on to their neutrality and independence, while seeking to contribute to all human rights for all, in collaboration with other civil society actors.**

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