

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL

CCPR/C/1/Add.11
25 May 1977

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Second session

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

Initial reports of States parties due in 1977

Addendum

HUNGARY^{*/}

[16 May 1977]

The provisions of the International Covenant on Civil and Political Rights, which entered into force for the Hungarian People's Republic on 22 March 1976, are applied as part and parcel of the national law of Hungary. It may also be noted that the civil and political rights contained in the said Covenant were embodied in a valid instrument of national law at the very moment the Hungarian People's Republic was established.

Accordingly, the signature of the International Covenant on Civil and Political Rights and its proclamation with the force of law by the Hungarian State were also an affirmation of the intention of the Hungarian People's Republic to make increased efforts to develop co-operation with all States parties respecting the concrete provisions of the said Covenant.

The Government of the Hungarian People's Republic takes pleasure in complying with its obligation undertaken in accordance with Article 40 of the Covenant because it is convinced that its report on the implementation of civil and political rights in conformity with the principle of socialist legality will be an added contribution to the common endeavours of the States parties in this field.

^{*/} At the request of the Permanent Representative of the Hungarian People's Republic, the Committee's attention is drawn to relevant information contained in his Government's reply to a questionnaire concerning the study on "The individual's duty to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights" undertaken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 9 (XXVII). Copies of the reply in the original English are available in the Secretariat's files.

1. Ad. Article 6

Article 17 of Act I of 1972 on the Constitution of the Hungarian People's Republic provides that "The Hungarian People's Republic protects the life, physical integrity and health of its citizens ...". In the legal system of Hungary the right to life, physical integrity and health is also protected by Act V on Penal Procedure by declaring any arbitrary act of deprivation of life, violation of physical integrity and injury to health to be a criminal offence. Under Article 3, paragraph 1, of the Penal Code, the offender shall be tried pursuant to the provisions of law in force at the time of the commission of the crime. The same applies to crimes liable to capital punishment.

The death penalty in the criminal law of Hungary is an exceptional measure to be imposed only if the purpose of punishment is deemed to be unattainable by other means. The Special Part of the Penal Code relating to punishments prescribes the imposition of the death penalty for only a few offences of particular gravity, (e.g. aggravated cases of manslaughter). The exceptional character of the death penalty is further evidenced by the fact that it is always provided for alternatively with imprisonment for a term of 10 to 15 years, or for life. In other words, imposition of the death penalty is not mandatory for such crimes either. Also, it may not be imposed on persons who have not yet completed 20 years of age at the time of the commission of the crime. The execution of the death penalty is regulated by Act I of 1973 on Penal Procedure.

A death penalty shall not be executed except in pursuance of a final judgment of a competent court. When a sentence of death is handed down, the court shall ask the convict if he wishes to appeal for pardon and shall invite the defence counsel to lodge such appeal irrespective of whether or not the convict seeks pardon. The provision of law that an enforceable sentence of death can only be carried out after an appeal for pardon has been refused by the Presidential Council of the Hungarian People's Republic serves as a fundamental safeguard. There is no limitation on the exercise of the prerogative of pardon by the Presidential Council, which may, by pardon, commute a sentence of death into imprisonment for life, or for a term of 20 years. A pregnant woman, while in pregnancy, must not be informed of refusal of her plea for pardon and a death sentence must not be carried out on her during pregnancy.

2. Ad. Article 7

The legal system of Hungary allows no cruel, inhuman or degrading punishment. Article 6, paragraph 1, of Law-Decree No. 21 of 1966 on the Execution of the Penalty of Imprisonment and on Detention under Remand provides that the convict shall not suffer any prejudice other than those established by law and imposed by the sentence. Nor can anyone be subjected, without his consent, to medical or scientific experimentation.

3. Ad. Article 8

The penalty of hard labour is not provided for in the Hungarian criminal law, but the convict is required to perform work while serving a term of imprisonment. The purpose of obligation for work is to ensure re-education of the offender, maintenance of his physical and mental strength and, through acquisition of professional skill, his reintegration into society.

4. Ad. Article 9

Under the Constitution, the Hungarian People's Republic safeguards the freedom and inviolability of the person (Article 66).

Detention in custody and under remand may be effected only in cases defined by law. The relevant rules applicable in criminal proceedings are laid down in legislative provisions.

Detention or arrest may be ordered by an appealable decision of a competent authority. Such a warrant shall indicate the reason for arrest. A person held in custody or detained under remand shall be heard within 24 hours. The suspect shall be informed of the offence charged as well as of his right to choose, or request appointment of, counsel.

Article 17 of the Act on Penal Procedure makes it a responsibility of the procurator to exercise supervision over the legality of investigation. A relevant rule provides that, during the period of investigation, detention under remand may be ordered by the procurator or, with the procurator's approval, by the investigating authority. A suspected person detained under remand shall be heard by the procurator before the filing of indictment.

Detention under remand cannot be ordered or maintained, even during court proceedings, except in cases specified by law, so that the defendant's deprivation of liberty before a sentence of the court is rendered is not a general rule. Release, however, is not conditional on financial security (e.g. bail), for, in view of the differences in the economic situation of citizens, it would prejudice the principle of equality before the law.

The cases of persons detained under remand shall be disposed of promptly. Investigations shall, as a rule, be terminated within 30 days and trial shall be held within 30 days of the filing of indictment.

The suspect or the defendant shall have recourse to legal remedy against an order of detention under remand and may, at any time, lodge a request for his release.

According to Article 383 of the Act on Penal Procedure, compensation shall be payable for detention under remand if the criminal proceedings have been terminated because the act for which the detention was ordered is not a crime, or it was not committed by the suspect, or the defendant was acquitted of the charge against him.

5. Ad. Article 10

Article 43, paragraph 1, of Law-Decree No. 21 of 1966 on the Execution of the Penalty of Imprisonment and on Detention under Remand provides that detainees under remand shall be separated from convicts. The detailed rules show that such persons are not treated as convicts, so they are allowed to wear their own clothes and may be engaged in productive work only at their request and with the approval of the procurator.

Article 2 of the said Law-Decree provides, as a basic principle governing the execution of punishment, that the purpose of the execution of punishment is to re-educate the convict to be a law-abiding citizen through application of the prejudice defined in the sentence and practical implementation of the socialist principles and methods of education. This is coupled with the principle that the execution of punishment shall be governed by humanism.

The basic principles of the execution of punishment of juvenile offenders require a particular measure of care to be devoted to their moral education and training. The detailed rules differ in various aspects from those relating to adults and are consequent in according them treatment appropriate to their age and meeting the special requirements of their education.

Juvenile persons, detained and convicted, are segregated from adults.

6. Ad. Article 11

The legal system of Hungary does not permit imprisonment merely on the ground of one's inability to fulfil a contractual obligation.

7. Ad. Article 12

The right of everyone within the territory of the Hungarian People's Republic to liberty of movement and freedom to choose his residence is guaranteed under the law.

The principal questions relating to passports are regulated by Law-Decree No. 4 of 1970 and Government Decree No. 4/1970.(III.3.) on the former's enforcement. The Law-Decree lays down the basic principle that every Hungarian citizen shall have the right to be issued with a passport and to travel abroad. A passport shall be withheld from a person whose travel or stay abroad is prejudicial to the state or economic interests of the Hungarian People's Republic or is liable to prejudice or jeopardize any other important public interest. The conditions for the issuance of a passport for the purpose of taking up permanent residence in another country are contained in Article 12 of the said Government Decree, the detailed provisions of which are in keeping with the basic principles described above.

8. Ad. Article 13

The rules on aliens' entry into and departure from the territory of Hungary are laid down in Government Decree No. 27/1966 (IX.25.).

9. Ad. Article 14

The basic principles governing the administration of justice are contained in Articles 6 to 14 of Act IV of 1972 on the Judicature. By virtue of these principles the laws and regulations of the Hungarian People's Republic are equally binding on all courts of law; the same courts proceed in the cases of all citizens irrespective of their social status and nationality; the hearings before all courts of law are public (Art. 8); and suspected or accused persons are guaranteed the right of defence (Art. 9).

The principle of equality before the law in criminal proceedings is consistently enforced by the Act on Penal Procedure. A basic principle governing proceedings is that court trials shall be held in public (Art. 11). Application of this principle may be limited by the court for reasons of preservation of state or official secrets, or if so required on moral grounds. The pronouncement of a judgement, however, may take place in public even if the court has excluded the public from the trial.

These same principles of judicial proceedings apply also to civil proceedings (Article 7 of Act III of 1952 on Civil Procedure).

The presumption of innocence as a basic principle is laid down in Article 3 of the said Act, under which no one shall be regarded guilty until his criminal responsibility has been established by a final court judgement. The proof of guilt shall lie with the proceeding authority. A person against whom proceedings have been instituted shall not be required to prove his innocence.

During criminal proceedings, the defendant shall have the right to know the crime for which proceedings have been instituted against him. It is the duty of the authorities proceeding in criminal cases to ensure assertion of this right. Thus, for instance, in the phase of the proceedings before hearing, the person involved shall be informed of the crime which he is suspected of having committed (Art. 132 of the Act on Penal Procedure). Judicial proceedings may be instituted only on the basis of an indictment lawfully filed, which shall name the offence charged.

A basic principle of criminal proceedings is that of defence guaranteed by law and comprising the freedom of defence and to choose counsel. This right is ensured also for persons detained under remand. Article 97 of the Act on Penal Procedure provides that a person detained under remand shall not be restricted in the exercise of his procedural rights, particularly that of preparing for defence; he may communicate with his attorney either orally without control or in writing with control.

According to Article 180 of the Act, the court shall hear the case of the defendant without delay, setting the date of the trial for the earliest possible day, but not later than thirty days from the case having been submitted before the court.

Trial must not be held in the absence of the defendant. The authorities proceeding in criminal cases are under a legal obligation to advise of their rights the persons participating in the proceedings. Such obligation includes communication to the defendant of his right to choose counsel. Participation of counsel in criminal proceedings is mandatory in case of offences of greater gravity or if defendant is restricted in taking care of his defence. If the defendant has not selected counsel, the proceeding authority shall, where defence is mandatory, designate counsel for him free of charge.

Article 44 of the Act guarantees for the defendant the right to put questions to those heard at the trial, including witnesses. The law makes no difference between witnesses on behalf of the defendant and those against him.

The right to use one's mother tongue is a basic principle of criminal proceedings. According to Article 8, everyone is entitled to use his mother tongue for speaking or writing throughout the proceedings. If a person speaking a language other than Hungarian wishes to use his own mother tongue, an interpreter's service shall be provided for him. The expenses of interpreter's service shall be advanced by the proceeding authority and shall be charged as cost of trial to the defendant, if found guilty.

The penal procedure of Hungary does not allow the defendant to be heard as witness in his own case. The defendant cannot be compelled to give testimony, which he is entitled to refuse.

Chapter XIII of the Act on Penal Procedure contains the special rules on criminal proceedings against juvenile persons. According to Article 294, criminal proceedings shall be conducted in such a way as to promote their desirable development. A procurator with appropriate skill and experience shall proceed in case of juvenile persons. In order to ensure competence and to meet the special requirements of education the cases of juvenile persons shall be heard by a specially composed court proceeding in council (thus, in the case of a court of first instance, one of the assessors shall be an educationalist and one of the members shall be a woman).

The right of recourse to legal remedy is another basic principle of criminal proceedings, which is consistently enforced by the provisions of the Act on Penal Procedure. Any person found guilty by a court of first instance shall have the right of appeal to a court of second instance.

According to Article 384, the convict who in consequence of a final court decision has served a term of imprisonment shall receive compensation if as a result of retrial or protest on legal grounds he has been acquitted or sentenced to a less severe punishment. No compensation is due if the convict has concealed the facts or evidence on which the sentence passed in retrial is based or has failed to appeal against his previous sentence.

According to Article 13 on the impediments to criminal proceedings, no proceedings may be instituted or the proceedings shall be terminated, or the defendant acquitted, if the act of the defendant has already been finally decided, except in the case of retrial and of protest lodged on legal grounds.

10. Ad. Article 15

Pursuant to Article 3 of the Penal Code, crimes shall be adjudged under the laws in force at the time they have been committed. If the act is no longer a crime or is to be punished less severely under a new law in force at the time of the trial, the new law shall apply also to the act committed prior to its coming into force; otherwise the new law shall have no retroactive effect.

11. Ad. Article 16

Under Article 8 of the Civil Code, everyone in the Hungarian People's Republic has legal capacity, i.e. may have **rights** and obligations. Legal capacity is equal irrespective of age, sex, nationality or denomination. A contract or unilateral declaration restricting legal capacity shall be deemed to be null and void.

12. Ad. Article 17

By virtue of the Constitution, the Hungarian People's Republic safeguards the privacy of the home and the correspondence of citizens.

The protection of the rights pertaining to persons is ensured by Articles 81 to 87 of the Civil Code, which define the scope of such rights and the legal remedies against their violation under the civil law. Should, however, the violation of the rights of the person amount to a crime (misdemeanour), the offender is liable to be held criminally responsible under Articles 261 to 270 of the Penal Code on Crimes against Human Freedom and Dignity.

13. Ad. Article 18

The Constitution guarantees the freedom of conscience and religious worship. In order to ensure the freedom of conscience the Hungarian People's Republic separates the Church from the State (Article 63).

Religion in the Hungarian People's Republic is considered a private affair of citizens.

Hungarian law considers the relations between the State and the churches as being governed by the agreements concluded in the period from 1948 to the 1950s, under which all denominations exercise the right of self-government. The property of religious communities serves the purposes of religious life and worship in accordance with the basic principle of socialism that property must not provide a basis for discrimination in respect of civil rights.

Every church and denomination in Hungary has its own organizational statutes approved by the State Office for Church Affairs.

The competent administrative organs, under a nation-wide scheme for the protection of historic buildings, take care of the maintenance of all church establishments (temples, chapels, educational institutes, museums, etc.) which are part of the cultural patrimony of the entire Hungarian people, but are church-owned and serve for the purpose of religious worship.

Still in force, Law-Decree No. 39 of 1955 on Workers' Sickness Insurance is applicable also to ecclesiastics and church employees, while Decree No. 71/1955 of the Council of Ministers on the former's enforcement provides that "Ecclesiastic persons in actual service and their families are entitled to insurance benefits under the same conditions and to the same extent as workers in employment and their families".

The denominational schools, while they primarily ensure the supply of priests, grant certificates that are recognized valid for the whole territory of the Hungarian State and entitle their holders to apply, under equal conditions, for admission to State institutes of higher education. The maintenance of denominational schools is financially supported by the State.

Religious instruction is regulated by uniform statutory provisions (Law-Decree No. 5 of 1949 and Government Decree No. 21/1957.(III.24.)), which guarantee religious instruction in the temples for both adults and children who wish to participate in it out of their free will.

The personal data of Hungarian citizens contain no reference to the fact of their belonging or not to a church or denomination.

The churches in Hungary have their own periodic publications.

14. Ad. Article 19

Article 54 of the Constitution provides that "Human rights shall be respected in the Hungarian People's Republic", and the Constitution contains no limitation on the exercise of these rights. As the Constitution is the supreme law of the Hungarian People's Republic, nothing contrary to its provisions shall be admissible in Hungarian law.

In keeping with paragraph 3 of Article 19 of the Covenant, stating that the exercise of the right to freedom of expression provided for in paragraph 2 carries with it special responsibilities and may, therefore, be subject to certain restrictions, which, however, shall only be such as are provided by law and are necessary (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order, or of public health or morals; Article 64 of the Constitution provides that "In accordance with the interests of socialism and the people, the Hungarian People's Republic guarantees the freedom of speech, the freedom of the press, and the freedom of assembly". Limitations are imposed only by the following laws and regulations:

- Article 19 and 20 of Act II of 1972 on Health;
- Article 55 of Act I of 1976 on National Defence;
- Decree No. 21/1953.(V.15.) of the Council of Ministers on the Regulation of Matters Relating to Animal Health (restricting the freedom of movement of the population in the event of epizooty).

Where there exist reasonable grounds defined by law, such limitations may be ordered by the organs of state administration vested with powers of decision in an emergency situation and in the interest of the community.

In the cases specified by law, recourse may be had to the court against such decisions of the administrative authorities.

Article 51 of the Constitution and the Act of 1972 on the Procurator's Office enable the procurator to initiate, upon complaint of an applicant or ex officio, the taking of a new decision by the superior organs of state administration to supersede any decision of a lower state organ, if it unlawfully derogates from the exercise of human rights.

Article 19, paragraphs 1 and 3, of the Constitution provides that Parliament, the highest organ of State authority and of popular representation, shall have the right to exercise control over the observance of the Constitution and to annul any measure of the state organs if it infringes the Constitution or is detrimental to the interests of society. Similarly, under Article 35, paragraph 3, of the Constitution, the Council of Ministers may annul or modify any regulation, decision or measure adopted by any organ subordinated to it, if they are contrary to the law or detrimental to the public interest; and it may annul any order or decision of the councils if they are detrimental to the interests of society.

This goes to show that the Parliament and the Council of Ministers have the prerogative of annulling any regulation of the local authorities if it violates human rights or offends the law.

15. Ad. Article 20

Under Article 135 of the Penal Code, whoever instigates to war or otherwise carries on war propaganda shall be deemed to commit a crime.

Under Article 127 of the Penal Code, the crime of incitement shall be deemed to be committed by a person who commits an act liable to incite others to hatred directed against any people, nationality, denomination, or race.

16. Ad. Article 21

Under Article 64 of the Constitution, the Hungarian People's Republic guarantees the freedom of speech, the freedom of the press, and the freedom of assembly in accordance with the interests of socialism and the people.

17. Ad. Article 22

The Constitution guarantees the freedom of association. Pursuant to its Article 10, the State supports the co-operative movement of workers based on voluntary association and the development of co-operative socialist property, guarantees the autonomy of co-operatives and exercises supervision over their activities with a view to enforcing the principles of socialist co-operativism. The Hungarian People's Republic devotes particular attention to the agricultural co-operatives of peasants. The basic rules on co-operatives are laid down in Articles 43 to 67 of the Civil Code and in Act III of 1971 on the Co-operatives.

Article 65 of the Constitution provides that the right of association shall be guaranteed by the law. The relevant provisions are contained in Articles 71 to 80 of the Civil Code, which determine the basic rules governing the establishment of associations. The system of State control over associations is regulated by Law-Decree No. 35 of 1970.

The trade unions in the Hungarian People's Republic occupy a prominent place in relation to associations. The Constitution qualifies them as social organizations and determines their basic functions: to defend and strengthen the power of the people, to protect and represent the interests of workers (Article 4, para. 3, of the Constitution). The particular importance attached to social organizations, including the trade unions, is also properly reflected in Articles 68 to 70 of the Civil Code.

18. Ad. Article 23

The protection of the institution of marriage and the family is guaranteed by the Constitution (Art. 15) as the highest source of law, while the detailed rules thereon are laid down in the Family Law (Act IV of 1952 on Marriage, Family and Guardianship).

19. Ad. Article 24

The protection of minors in domestic relations is provided for by the Family Law, in particular under Articles 60 to 69 on the maintenance of children, Articles 70 to 93 on parental supervision, and Articles 94 to 111 on guardianship.

State assistance is provided for by Act II of 1975 on Social Insurance (Articles 15 to 35 on maternity benefits and family allowance) and by Decree No. 12/1974.(V.14) of the Council of Ministers on Child-Care Allowance.

The registration of births and the name-giving to children are regulated by Law-Decree No. 33 of 1963 and the Family Law (Articles 41 and 42), respectively.

The acquisition of Hungarian citizenship is governed by Act V of 1957.

20. Ad. Article 25

The Constitution provides that every citizen shall have the right to participate in public affairs and also the duty to discharge public functions conscientiously (para. 1 of Art. 68).

The basic principles governing elections are formulated by Articles 71 to 73 of the Constitution, while the rules on the election of Members of Parliament and councillors are laid down in Act III of 1966 on Elections.

21. Ad. Article 26

Equality before the law is provided for in Article 61 of the Constitution saying that the citizens of the Hungarian People's Republic are equal before the law and enjoy equal rights, and that discrimination of any kind against any citizen on grounds of sex, religion or nationality is a severely punishable offence (paragraphs 1 and 2).

Article 62 of the Constitution provides that women shall enjoy equal rights with men. The equal rights of women are implemented by ensuring them appropriate conditions of employment and work, maternity leave with pay in the event of pregnancy, increased legal protection of mother and child, and by establishing a system of maternity and child welfare institutions.

22. Ad. Article 27

Article 61, para. 3, of the Constitution provides that the Hungarian People's Republic guarantees for all nationalities living within its borders the equality of rights, the right to use their native tongue, the right to education in their native tongue, and the right to preserve and develop their national culture. The concept of the crime against a group of a nation, people, race or religion and its consequences under the criminal law are determined in Article 138 of the Penal Code.

*

*

*

The civil and political rights in the Hungarian People's Republic are protected and enforced through the above safeguards, which are established by a political system freely determined by the whole population of Hungary as a people exercising its right to self-determination and constituting a socialist State.