



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

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COMMITTEE AGAINST TORTURE
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**List of issues to be considered during the examination of the
fourth periodic report of HUNGARY (CAT/C/55/Add.10)**

Article 1

1. According to the State party report, torture violates section 226 (ill-treatment in official proceedings) and 227 (forced interrogation) of the Criminal Code. Please inform the Committee if the definition of torture contained in article 1 of the Convention has been incorporated into the Criminal Code.
2. Please inform the Committee if any additional steps have been taken to re-examine article 123 of the Criminal Code to ensure its compliance with the Convention.

Article 2

3. Please provide information on the steps taken by the State party to further guarantee the rights of persons in police custody from the very outset of detention, including prompt access to defence counsel, medical examination and contact with family members, and any restrictions that may be imposed on these rights.
4. Please indicate the maximum duration of pretrial detention and please specify if it is still possible for persons to be held on remand in police establishments. If so, please provide statistics in this regard. What is the effect of the application of order No. 6/1996 (VII.12) of the National Commander of Penitentiary Institutions governing the implementation of detention on remand? Please provide more information on the new Criminal Procedure Act, including the implementation of the alternatives to pretrial detention. (State party report, paras. 29, 42, and 43.)
5. Please indicate what the situation is at present with regard to the strict separation of persons below 18 years of age from adults in places of detention.

6. Please inform the Committee whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by the sex, age and ethnicity of the victims, and information on investigation, prosecution and punishment of perpetrators.

7. Please provide more information on the mandate and activities of both categories of the Hungarian Ombudsman institution, i.e. the Ombudsman for human rights and the Ombudsman for national and ethnic minority rights. What human and financial resources have been allocated for this institution? How many complaints relating to torture have been examined by the Office of the Ombudsman for Human Rights since its establishment in July 1995 and what action has been taken on them?

Article 3

8. Please inform the Committee of action taken, if any, to bring the Hungarian translation of article 3, paragraph 1, of the Convention in line with the authentic text.

9. Please inform the Committee of the specific safeguards against non-refoulement that are in place and the practice of the State party in this respect. Please provide examples of cases where the authorities did not proceed with extradition, return or expulsion because of fear that the persons might be tortured.

10. Please provide statistical data with respect to the implementation of article 3 of the Convention in cases of expulsion or return (refoulement) of foreigners, indicating, in particular:

(a) The number of persons seeking asylum and the number of returnees, including the countries of return;

(b) How the probable risk of torture is assessed in the determination and the process to appeal the decisions; and

(c) The procedure for the examination of asylum requests submitted at the border.

Article 4

11. Please provide data with respect to persons tried and convicted, including the punishments received, for the crime of torture. Please clarify for the Committee which sections of the Hungarian Criminal Code were violated in such cases.

Article 5

12. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result.

13. Please clarify the extent to which Act LIV on the Cooperation of the International Criminal Investigation Agencies, or any other legislative or judicial practice, grants Hungarian courts the power to bring actions against foreigners present in Hungary who are suspected of committing acts of torture abroad. (State party report, paras. 68-70.)

Article 10

14. Please provide updated information on the instruction and training provided for law-enforcement officials and other public officials with respect to human rights, specifically on the treatment of detainees and vulnerable groups, in particular the Roma, and on the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment. Please specify if the Convention is made known in the course of such programmes. How and by whom are these training and instruction programmes monitored and evaluated?

15. Please indicate further whether there are specific programmes to train the medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims.

Article 11

16. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced. Please also indicate the frequency with which these are reviewed.

17. Please comment on the concerns expressed by the Committee on the Rights of the Child related to reported cases involving minors arbitrarily detained and ill-treated by law-enforcement officials, reports of ill-treatment by adult inmates due to mixed detention facilities, and overrepresentation of Roma children within the juvenile justice system (CRC/C/HUN/CO/2, para. 60, dated 17 March 2006).

Articles 12 and 13

18. Please elaborate on the content of section 139 of the Act on criminal proceedings and its use in practice to prevent prosecutions of those alleged to have committed the offence of torture. (State party report, para. 65.)

19. Please clarify if offences committed by prison officers are investigated by military justice organs.

20. Please provide information, including statistics, on the number of complaints of torture and ill-treatment and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual bringing the complaint.

Article 14

21. Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since 2000. This information should include the number of requests made, the number granted, and the awards in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?

22. Please provide information on steps taken by the State party to ensure medical and psychosocial rehabilitation of the victims.

23. Please inform the Committee of measures taken to implement the Views of the Committee on the Elimination of All Forms of Discrimination against Women (2/2003, adopted in January 2005).

Article 15

24. Please specify the legal basis for the prohibition of the use of information obtained under torture in any proceedings. Please provide examples of any cases where allegations of confessions extracted under torture have existed and inform the Committee of any measures taken by the State party to ensure that the burden of proof rests with the prosecution.

Article 16

25. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate of the accommodation capacities for the period 2002-2005. In particular, please indicate what measures were taken to address the severe overcrowding in the Budapest Remand Prison.

26. Please provide information on the improvement of the material conditions of prisons and police detention centres, and the improvement of services such as medical screening and care, in response to the many recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its third visit in March/April 2003. Please provide information on the findings and recommendations made following the national survey on the treatment of detained persons carried out by the Public Prison Prosecutors Office. (State party report, para. 34.)

27. Please provide information on measures taken to reduce overcrowding in penal institutions, refugee shelters and detention centres for undocumented migrants, other than an increase of capacity, and indicate how successful these have been thus far. Given that existing plans and measures taken to address overcrowding are, as the State party describes these, at best a “temporary solution for the problem of overcrowding”, please detail any concrete legislative plans and budget allocations relevant to addressing this problem in the future. (State party report, para. 45.)

28. Please elaborate on the second proposal of the three-pronged development plan set out by Government decree 2072/1998 (31 March) whereby minors and women will be placed “closer to their place of residence”. How will this proposal be implemented, what is its expected impact on other prisoners in the system at large, and how will it reduce overcrowding? (State party report, para. 39.)
29. Please describe measures taken by the State party to address the problem of violence against women, including rape and sexual harassment, in particular in detention centres.
30. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking, particularly of children, and to provide assistance to victims, including sensitization of law-enforcement officials in contact with these victims.
31. Please describe measures taken to combat racism and discrimination, in particular racially motivated violence against Roma and other minority groups or foreigners, including prompt and impartial investigations into allegations of offences pursuant to articles 1 and 16 of the Convention.
32. Please comment on the concerns expressed by the Committee on the Elimination of Racial Discrimination (A/57/18, paras. 378 and 379, dated 1 November 2002) related to allegations of ill-treatment and discrimination against the Roma and non-citizens by law-enforcement officials, especially the police. Please also inform the Committee of any follow-up actions taken in respect of the recommendations expressed by the Committee on the Elimination of Racial Discrimination that more members of minority groups be recruited into the law-enforcement agencies, especially from the Roma minority, that the existing legal-aid system is strengthened, and that parliamentary commissioners are empowered to investigate allegations of ill-treatment and discrimination by the police.

Other

33. Does Hungary envisage ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment? If so, does Hungary envisage setting up or designating a national mechanism that would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?
34. Please indicate whether there is legislation in Hungary aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.
35. Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.
