



**International Covenant on Civil and
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Summary record of the 1993rd meeting

Held at Headquarters, New York, on Friday, 22 March 2002, at 10 a.m.

Chairperson: Mr. Bhagwati

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant *(continued)*

Fourth periodic report of Hungary
(CCPR/C/HUN/2000/4, CCPR/C/73/L/HUN)

1. *At the invitation of the Chairperson, the delegation of Hungary took places at the Committee table.*

2. **Mr. Hóltzl** (Hungary) said the international protection of human rights lay at the core of Hungary's human rights policy and Hungary was a party to almost all the international human rights instruments. His delegation believed that the international monitoring of civil and political rights represented a helping hand by the treaty bodies to the States parties. In that light, dialogue with the Committee and observations by civil society organizations were indispensable.

3. Significant changes had taken place in the Hungarian legal system since the submission of Hungary's fourth periodic report. The democratic institutions were functioning well, and the Constitutional Court was playing a role in fostering the protection of human rights. The Civil Code and the Penal Code were being redrafted, and a new constitution was in preparation. A key concern in Hungary was to enforce the rights of minorities, and especially to improve the situation of the Roma minority. Tremendous efforts had been made in that respect, including the adoption in 1999 of a medium-term plan for the purpose.

4. Hungary was now preparing for accession to the European Union, and had therefore to harmonize its legal system with the norms of the European Communities. It was ready to adopt and implement all those norms. The tragic events of 11 September 2001 had created a new challenge. Hungary had succeeded in taking the necessary measures against terrorism without decreasing the level of human rights protection. A new Act of Parliament authorized the Government to introduce trade, financial and economic restrictions when required by international organizations to do so. Such restrictions must be for a limited period of not more than 90 days, and must be reported to Parliament.

5. A shortcoming mentioned in the fourth report, namely, the absence of legal remedies for administrative decisions in cases of regulatory offences

(misdemeanours), had been done away with by the new Act on Regulatory Offences, in force since 1 March 2000, which made all such decisions subject to judicial review.

List of issues (CCPR/C/73/L/HUN)

Constitutional and legal framework within which the Covenant is implemented (article 2 of the Covenant); states of emergency (article 4 of the Covenant)

6. **The Chairperson** read out the questions relating to articles 2 and 4: cases in which the Constitutional Court had considered the validity of domestic legislation on grounds of alleged inconsistency with the Covenant; procedures or mechanisms for the implementation of the Committee's Views; rights which could be restricted during a state of emergency, the nature of the restrictions and their compatibility with article 4.

7. **Mr. Hóltzl** (Hungary) said that the Constitutional Court did not use the Covenant as a basis for declaring any particular provision unconstitutional. However, that did not diminish the impact of the Covenant, since the text of the Constitution had been modelled on the Covenant itself. In a 1992 case, the Court had ruled that a provision in the Penal Code prohibiting the use of insulting expressions in relation to certain groups, including religious, national or racial minorities, was unconstitutional, and had therefore repealed it. It had found that the provision in question placed a disproportionate restriction on freedom of expression and freedom of the press, contrary to articles 16 and 19 of the Covenant. The Court had pointed to other remedies for grievances under that heading, such as the sanctions available in civil or administrative law.

8. In a 1991 case, the Court had ruled against a provision in the Code on Criminal Procedure that claims for compensation for unlawful detention must be decided by the Minister of Justice, without the possibility of judicial review. Its decision was based on article 9, paragraph 5, of the Covenant. In a further decision based on article 9, paragraph 1, the Court had ruled unconstitutional the omission from the Code of certain procedural rules for granting pardons on the ground of clemency. The Code had been amended accordingly, with effect from 1 March 2000.

9. In a 2001 case, the Court had ruled unconstitutional the Act amending the Decree on the Execution of Punishments, providing for prisoners' freedom of expression to be restricted by subjecting

media interviews to the supervision of the prison governor. The decision was based on article 19, paragraph 3, of the Covenant. Another enactment, which would have amended the Civil Code to extend the right of reply to statements of opinion in the media, had been ruled unconstitutional in 2001 on the basis of article 19, paragraph 2, of the Covenant.

10. Only a handful of communications had been submitted under the Optional Protocol by individuals in the Hungarian jurisdiction. That was partly because Hungary had adhered in 1992 to the European Convention on Human Rights, which had its own court in Strasbourg. Hungary had a well-established practice for implementing Views adopted by the Committee. Once received by the Ministry of Foreign Affairs, the document was forwarded to the relevant State agencies responsible for its implementation, the official view of the Government being coordinated through administrative procedures.

11. Article 8, paragraph 4, of the Constitution stated that during a national crisis, state of emergency or state of danger, the exercise of fundamental rights could be suspended or restricted, except for certain fundamental rights specified in articles 54-60 and 66-70. The rights not subject to restriction were the right to life and human dignity, the prohibition of torture and of cruel, inhumane or degrading treatment or punishment, and of medical or scientific experiments without prior consent; the right to freedom and personal security; legal capacity; the principle of innocence, the right to a lawyer and *nullum poena sine lege*; freedom of thought, conscience and religion; equality of men and women in all civil, political, economic, social and cultural rights; protection of the family and youth; the rights of national and ethnic minorities; the right of citizenship; and the right to social security. The restrictions on other rights were regulated by Act CX of 1993 on national defence. The press and media could be controlled and censored, in which case journalists would have to use the information disseminated by the Hungarian News and Press Service Company and by Hungarian radio and television. Communications systems could also be controlled. A curfew could be imposed, and travel abroad or within the country could be restricted or prohibited. Foreign contacts could be limited and traffic reduced, and evacuations could be ordered. Military justice and summary jurisdiction could be introduced, with limitations on the right of appeal. New minor offences could be brought in by the military authorities. Real estate and tangible assets

could be requisitioned, and controls placed on production and economic activities. All those restrictions, and the procedures followed in such cases, were compatible with article 4 of the Covenant.

Non-discrimination and rights of persons belonging to minorities (articles 2.1, 26 and 27 of the Covenant)

12. **The Chairperson** read out the questions relating to articles 2, paragraph 1, 26 and 27: measures to prevent and combat discrimination in access to housing and public places and in employment, especially as regards the Roma minority, and allegations of discriminatory treatment of Roma by the police and judiciary; steps taken to overcome problems relating to the placement of Roma children in "special schools", and alleged discrimination in State education facilities; extent of allegedly racially motivated violence and harassment vis-à-vis foreigners and asylum seekers, allegations of police failure to prosecute hate crimes and measures taken; cases dealt with by Parliamentary Commissioner and proposal to adopt an anti-discrimination law; updated information on number and proportion of minorities involved in political and public affairs and economic life.

13. **Mr. Hóltzl** (Hungary) said that according to the Constitution, the Republic of Hungary had to ensure the collective participation of national and ethnic minorities in public life and foster their culture and the use of their mother tongue. School instruction must be provided in their languages, and they must have the right to use names in those languages. Act No. 77 of 1993 provided both individual and collective minority rights, including the right to personal autonomy and the right to establish local and national self-government. A member of a minority group who believed his or her rights to have been violated could use all the remedies available in the law, and could enforce those rights before the administrative and police authorities, the courts, the Parliamentary Committee on National and Ethnic Minority Rights, the Ombudsman for National and Ethnic Minority Rights and the Constitutional Court. Several non-governmental organizations formed during the previous 10 years to protect minority rights received financial support from the State. Together with the free media, they constituted adequate forums for the enforcement of minority rights, and a means of reducing prejudice.

14. Section 5 of the Labour Code prohibited discrimination on any grounds such as sex, age, disability, nationality, race, social origin, religion,

political opinion, or participation in employee organizations. If discrimination was claimed, the onus for disproving the claim lay with the employer. The penalty for refusing to employ someone, or discriminating against an employee on those grounds, was a fine of up to 100,000 forints.

15. On the basis of Decrees Nos. 1074/1996 and 2332/1996, the Government had launched an experimental programme to improve the housing of socially disadvantaged young persons, including Roma families. Two organizations had been contracted to provide housing through long-term subsidies, and had built 121 flats and 117 flats respectively by 2000, a further 205 flats being scheduled for completion that year.

16. The task of the Ombudsman, or Parliamentary Commissioner, for National and Ethnic Minority Rights was to examine abuses of minority rights and to redress grievances. Individuals could address complaints against public authorities or providers of public services to the Ombudsman.

17. The State had adopted measures of positive discrimination in favour of minorities, especially the most deprived Roma communities. Decree 1047/1999 spelled out tasks to be accomplished in the field of education, culture, occupation, employment, agriculture, social and medical care, housing, discrimination and the media. Under a housing scheme launched in 2001, the State was to allocate 300 million forints to the national Roma self-governing institution to finance the construction of 200 flats. A social land programme, launched under Decree 1047/1999, aimed at providing means of subsistence for disadvantaged families, including Roma families. The land schemes operated under the programme were devised in collaboration with ethnic minority self-governing institutions, and were based on principles laid down by the Ministry of Agriculture. The employment authorities likewise carried out measures of positive discrimination which assisted the Roma, among other groups, by providing State subsidies of up to 90 per cent for the cost of communal work and 100 per cent of the cost of wages paid for the work, as well as meal contributions, travel allowances and loss of earnings payments for persons taking part in retraining courses.

18. The Ministry of Justice had set up a Client Service Network for Anti-Discrimination, to provide free legal advice and representation exclusively for Roma clients. By 31 December 2001 it had handled a

total of 196 cases. The Ministry of Justice had contributed 3,150,000 forints to the budget for the Network in 2001, and was expected to contribute 20 million in 2002. The Network had helped to encourage public awareness of the legal remedies available.

19. During 2002 the Ministry of Justice had reported 92 cases of mistreatment by the police, 29 cases of forced interrogation and 14 of unlawful detention. The victims in 19 cases had been Roma. Between 10 per cent and 15 per cent of the cases had resulted in convictions. There were no reports of discriminatory behaviour by the judiciary.

20. The State provided some financial assistance to Roma unable to pay for public utilities. Temporary accommodation was available, and some support could be obtained by Roma unable to meet the cost of mortgages. The funds were provided by the Roma Social Integration Programme, which had a budget of 3,350,000 Euros. The Welfare Innovation Project helped the Roma to obtain housing support.

21. In the field of education for Roma, the Government aimed to develop the content of primary level education, to stem the dropout rate in secondary and higher education, and to promote opportunities for graduates. It was increasing boarding school places for secondary pupils, by providing two new boarding schools, and was aiming to establish other new educational centres. It was necessary to increase the numbers of Roma children attending school, including pre-school establishments. To promote minority rights in education, the Office for National and Ethnic Minorities organized training courses for representatives of the minority self-governing institutions.

22. Roma children could not be placed in "special schools" without parents' consent. The Education Act was being amended to ease the transition into school by introducing a preparatory school year, allowing for individual rates of progress and creating a preparatory vocational school qualification.

23. An Office of the Ministerial Commissioner for Educational Rights had been established within the Ministry of Education in 1999, to promote the exercise of educational rights by all individuals and communities. A quality assurance system had been introduced, which should help to ensure effective anti-segregationist educational programmes for the Roma. Roma students attending university or college could apply for grants from the Ministry of Education. A new type of scholarship was available to Roma students who

undertook to assist organizations geared to helping Roma communities. Parliament had approved a supplementary scholarship fund for Roma of 100 million forints. Whereas there had been only 805 scholarships for Roma in 1998, the figure for 2002 was about 12,000, and was expected to rise to 16,000 in 2003.

24. The Criminal Code strictly prohibited violence against national, ethnic, racial or religious groups. The Ministry of Justice had established a team to consider whether treating "hate speech" as a criminal offence was compatible with the principle of freedom of expression. Racial motivations were generally regarded as aggravating circumstances under the Criminal Code. The Code of Criminal Procedure also contained provisions prohibiting discrimination; an amendment due to enter into force in 2003 would allow the victim to institute proceedings if the public prosecutor decided not to do so. In the event of denunciation, the authorities were obliged to examine the case. The number of offences committed by police officers was falling. The Public Prosecutor's Office was independent of the executive authorities; the Chief Public Prosecutor was accountable to Parliament. No figures were available for the origin and nationality of victims.

25. In 2000, a total of 431 cases had been submitted to the Parliamentary Commissioner (Ombudsman) for National and Ethnic Minority Rights. The Minister of Justice had set up an anti-discrimination committee to consider whether a general anti-discrimination law should be enacted or whether it would be more appropriate to modify the various anti-discrimination clauses in existing laws.

26. Under the Data Protection Act, data relating to nationality and ethnicity were regarded as sensitive and the authorities could collect such information only with the consent of the individual. Therefore the statistics for the involvement of minorities in various fields were only estimates. There were 12 national minorities and one ethnic minority in Hungary. All minorities had the right to establish political parties; however, no such parties were currently represented in Parliament. In the 1990-1994 parliamentary session, there had been three Roma members of parliament, in 1994-1998 there had been one, and in the current session there was none. In the forthcoming 2002 general election, the Government coalition parties and the biggest opposition party would be fielding Roma candidates.

27. At the level of local self-governments, there were two Roma mayors and 10 Roma deputy mayors. There were approximately 100 Roma civil servants, seven of whom worked for the Government. Each of the 13 national and ethnic minorities had elected a national self-government and a large number of minority self-governments. The National Roma Self-Government was represented on the Roma Inter-ministerial Committee. There were also about 300 Roma non-governmental organizations.

Equality between the sexes and non-discrimination between women and men (articles 3 and 26 of the Covenant)

28. **The Chairperson** read out the questions relating to articles 3 and 26: participation of women in Parliament, public service and the economic sphere; equal pay for work of equal value; legal remedies in cases of discrimination against women; violence against women and public awareness of the issue; extent of trafficking of women and girls for the purpose of prostitution.

29. **Mr. Hölzl** (Hungary) said that there were no legal impediments to women's participation in political life, but in practice they were still underrepresented. A 1998 survey had shown that, among the more educated population, men were more interested in politics than women. However, the turnout at general elections was about the same for both sexes. The number of women candidates at general elections had increased since 1990, as had the number of women elected. The number elected directly in constituencies was increasing; that demonstrated the growth of voter confidence in women members of Parliament. The representation of women on parliamentary committees was lower than the proportion of women in Parliament. Women also held few Government positions. The Ministry of Justice was currently the only ministry headed by a woman. However, women were well represented in the administration, the judiciary, education and health care. The position of women in local government was better than at national level. The number of women candidates and women elected to local government had increased since 1990, as had the number of women mayors.

30. In the economic sphere, the proportion of women who worked was lower than the proportion of men. However, the unemployment rate among women was lower. Women held about 70 per cent of jobs in the public sector, but only about 40 per cent in the private

sector. The number of self-employed women and female managers had, however, increased slightly.

31. No legislative measures were in place to enhance the participation of women in the above spheres, other than measures aimed at eliminating discrimination on the grounds of gender, although the Government was considering whether additional action might be necessary. Political parties were free to apply a quota system for female candidates. However, a survey had shown that most people, including the majority of women, did not support the idea of positive discrimination in employment. Such a measure would therefore have to be considered carefully before it could be introduced.

32. The right to equal pay for equal work was enshrined in the Constitution. The right to equal pay and non-discrimination was protected by civil law sanctions, namely compensation, and administrative sanctions and fines. However, in practice wage discrimination persisted. Although the gap between women's and men's pay had narrowed, women still earned, on average, only 85 per cent of what men earned. It was expected that Hungary's accession to the European Union would significantly improve the situation.

33. The legal remedies available in cases of discrimination against women were the same as those for cases of wage discrimination. In addition, the Ministry for Social and Family Affairs operated a hotline offering free legal advice to women victims of discrimination. The most frequently raised problems were wage discrimination and the situation of women returning from maternity and childcare leave. The Government had also introduced a programme designed to help people reconcile work and family life through such measures as flexible working hours and the provision of childcare facilities.

34. A number of provisions allowed for the prosecution of perpetrators of domestic violence. In 2000, 26 per cent of all murders and 16 per cent of incidents of aggravated battery had been committed by the spouse of the victim, both husbands and wives. In 6 per cent of rape cases, the spouse was the perpetrator. Marital rape had constituted a criminal offence since 1997. The Government had taken several measures to combat violence against women and strengthen assistance to victims, such as producing publications to raise awareness of the issue and running training programmes for professionals who dealt with victims.

A network of family aid services established under the Act on Child Protection worked to prevent domestic violence and support victims, while a number of other services were offered by non-governmental organizations. In 1999, the Government had adopted a resolution on the protection of victims of crime, including women victims of violence. Another resolution adopted in 2001 had provided for the establishment of a compensation fund for victims of violent crime.

35. Trafficking in human beings was now an offence under the Criminal Code, punishable by up to three years' imprisonment. Hungary had little experience of trafficking, but most of the known cases were related to prostitution. The involvement of a person under 18 and the commission of trafficking for the purpose of prostitution or forced labour were regarded as aggravating circumstances. Between March 1999 and December 2001, 35 women had become victims of trafficking for the purpose of prostitution; 19 of them had been aged between 14 and 18 and one had been under 14. A victim protection programme was to be put in place in April 2002. A number of information campaigns had been organized to increase awareness of the problem of trafficking among relevant officials and agencies, strengthen their capacity to combat it, and provide information to potential victims. Other measures to combat trafficking included the improvement of border controls.

Prevention of torture; treatment of prisoners and other detainees; liberty and security of the person and the right to a fair trial (articles 7, 9, 10 and 14 of the Covenant)

36. **The Chairperson** read out the questions relating to articles 7, 9, 10 and 14: allegations of ill-treatment by the police and of failure to prosecute and punish the perpetrators, and data on convictions; right of detainees to have access to a lawyer and the provision of legal aid; new Law on Criminal Procedure and new Criminal Code; alleged practice of keeping pre-trial detainees in police cells for prolonged periods; overcrowding in detention and prison facilities and statistics on the prison population; poor conditions of detention of some aliens and asylum-seekers, with particular reference to women and children.

37. **Mr. Bárd** (Hungary) said that the Criminal Code contained several provisions penalizing police misconduct, such as ill-treatment during official

proceedings and unlawful detention. The Code of Criminal Procedure stated that evidence obtained through illegal means, including the use of force or threats, was inadmissible. In recent years, the number of allegations of ill-treatment had averaged between 700 and 800 a year. Complaints relating to forced questioning numbered 300 to 400 a year and those relating to unlawful detention numbered approximately 100. About half of the complaints made were not investigated. The high number of decisions not to investigate had prompted the Public Prosecutor's Office to look into the matter. It had been found that, in most cases where investigation had been refused, no evidence had been provided to support the allegation. In addition, 70 to 80 per cent of investigations opened were discontinued because the crime in question was difficult to prove and suspects benefited from the principle of *in dubio pro reo*.

38. Appeals could be brought against decisions not to investigate a complaint or to discontinue an investigation. In 20 to 30 per cent of cases, the decision was overturned. If additional information or evidence came to light, a case could be reopened. More effective measures were needed to combat police misconduct, as anecdotal evidence suggested that many cases went unreported. In addition, the number of convictions was low and the sentences imposed relatively light. Police training and the investigation skills of prosecutors needed to be improved, and police conduct needed to be monitored more effectively. The new Code of Criminal Procedure would lower the requirements for opening an investigation of a complaint. Lastly, the "auxiliary prosecution" procedure would be reintroduced to give victims the right to take over the role of prosecutor in the event of non-investigation or dismissal of their complaint.

39. Referring to the right of detained persons to have access to a lawyer, he said that the Code of Criminal Procedure provided for mandatory defence in any circumstances in which individuals were deprived of their liberty, including for reasons of mental illness. Defence was not mandatory, however, when individuals were under arrest, which could last for up to 72 hours.

40. The Constitution and the Code of Criminal Procedure provided that everyone was entitled to a defence lawyer from the commencement of criminal proceedings. In practice, however, detainees faced considerable difficulties in retaining a lawyer once they were in jail.

41. If the defendant failed to appoint a lawyer, the authorities were required to appoint one, three days after the charges were brought. Since the charges were normally followed by interrogation, court-appointed lawyers were often absent from the first interrogation. Defendants could, however, insist on the presence of a lawyer at their interrogation.

42. Hungarian law contained a provision against self-incrimination. Suspects could choose to remain silent at any stage of the proceedings. In addition, the authorities must inform defendants explicitly of their right to remain silent, and the defendant must confirm that they had done so by signing the relevant portion of the file. If the authorities failed to so inform the defendant, or if the file was not signed by the defendant, the statement must be excluded as illegally obtained evidence.

43. Lawyer-client consultations were private. Defendants were not guaranteed the right to replace an officially appointed lawyer; however, they had the right to make motions and could, if they so wished, indicate whom they wished to act as counsel on their behalf, subject to the acceptance of such motions by the police, the prosecutor or the court. The new Code of Criminal Procedure explicitly guaranteed the right of defendants to replace their defence lawyer, and required lawyers to contact their clients without delay.

44. His Government did not deny that the practical application of those provisions left much to be desired. Court-appointed attorneys did not provide high-quality services for a number of reasons. Reform of the system had been under discussion for years. The Hungarian Bar was against the idea of a government-funded legal aid scheme, believing that Hungarian society would never accept such an institution; criminal defendants would not regard public defenders as their benefactors, but rather as State spies. Accordingly, the relatively low quality of court-appointed legal services was not so much a problem of ethnicity or of belonging to a linguistic minority, as the Committee indicated, but of poverty and the lack of professional ethics.

45. One option the Ministry had considered several years earlier had been to establish, on the model of the German and Austrian systems, a list of attorneys willing to take criminal cases on appointment; only attorneys appearing on the list would receive authorization to serve on retainer in criminal cases.

46. Turning to the question of pre-trial detention, he said that under Hungarian law there was no absolute

time limit for such detention. In recent years there had been a slight increase in the proportion of defendants held in pre-trial detention for one month or less, and in the proportion held for one year or more. The increases were due, in part, to the considerable change in the nature of crime in recent years. As new types of crimes had been introduced into the Criminal Code, investigations had become more complicated; there had been a significant increase in the number of cases with multiple perpetrators, and thus in the number of proceedings with multiple defendants.

47. The new Code of Criminal Procedure would introduce a number of changes concerning pre-trial detention. For one thing, it would limit such detention to no more than three years, except in cases where it was extended by decision of the court of first instance. For another, any extension of pre-trial detention could be appealed and the number of alternatives to detention would be increased. It would also provide for bail, the amount of which would be determined in accordance with the defendant's personal circumstances, and introduce a number of arrangements that were likely to speed up criminal proceedings overall and thus shorten the time defendants spent in detention.

48. **Mr. Hóltzl** (Hungary), referring to the question of overcrowding, acknowledged that Hungarian prisons were overcrowded, but said that according to international monitoring bodies, they generally still met international standards. On 31 December 2001, they had been at 159 per cent of capacity, with 17,275 inmates.

49. His Government had begun to implement a plan to build new facilities and modernize the existing ones. Among the aims of the plan were to increase capacity and to ensure that women and juveniles were incarcerated close to home. Three new prisons would be built during 2002-2003, increasing capacity by about 2,000, and raising the percentage of prisoners incarcerated close to home to 40 per cent. As from 1 January 2003, the maximum period of detention on remand for juveniles would be two years, and for adults, three years.

50. Turning to the question of detention of aliens and asylum seekers in community shelters, he said that pursuant to the Act on the entry and stay of foreigners, which had entered into force on 1 January 2002, aliens caught attempting to cross the border illegally could apply for refugee status, if they had valid travel documents; alternatively they would be housed temporarily at one of the border guard facilities,

pending deportation. Following criticism of inhuman conditions in such facilities, some of them had been closed and new ones were being built.

51. Currently, the Government Office of Immigration and Naturalization maintained four community shelters with a capacity of 352. The regional immigration authorities placed foreigners in community shelters if their return, expulsion or refusal could not be ordered owing to international obligations, if the time limit for arrest had expired, or if they had a residence permit issued on humanitarian grounds. These shelters were open institutions, with 15 cubic metres of space per capita. Single men and women were housed separately, but families were housed together. Aliens placed in community shelters must respect the rules of the institution, pay for any damage caused and inform the authorities if they were going to be absent for more than 24 hours.

52. **Mr. Yalden** said that the Committee was interested not only in legislative provisions but in concrete achievements. The report showed that the Government was also interested in achievements, but there was more information on new legal institutions and provisions than on accomplishments. A great deal of statistical data had been provided; it would be helpful to have such information in writing.

53. It had been brought to the Committee's attention by non-governmental organizations that the State party had no general anti-discrimination legislation and that sanctions against discrimination were not as vigorous as they should be. The State party might wish to examine how it could make further progress with regard to enforcement, going beyond the ombudsman structure.

54. The Committee was deeply concerned at the plight of the Roma who had long suffered from discrimination in the areas of housing, employment and education and who also experienced high rates of incarceration. It was no accident that the State Commission on National Minorities had reported that 70 per cent of the complaints were from members of national minorities.

55. The reports of ill-treatment by the police of Roma or foreigners whose physical appearance was different from that of Hungarians were too many to give credence to the assertion that individuals did not present enough evidence to enable prosecutors to move forward with the cases. Only a tiny percentage of complaints resulted in prosecutions, and even then the courts tended to be lenient.

56. With regard to overcrowding of prisons, the head of the delegation had stated that the prisons met international norms; it was difficult to see how that could be the case, since one of the norms concerned the living space to be allotted to prisoners.

57. The delegation had noted that women's participation in the labour force was low, even in the public sector. While the Constitution affirmed that men and women enjoyed equality of rights, he would appreciate information on what happened in practice. The fact that only one government minister was a woman was hardly a standard of achievement; the same could be said for women's representation in Parliament. Moreover, anti-discrimination measures were not sufficient; positive measures, which did not necessarily mean quotas, should also be considered.

58. **Mr. Klein** asked the delegation to elaborate on the provision in article 54 of the Hungarian Constitution that no one could be "arbitrarily" deprived of human dignity; he did not see how an individual could be deprived of dignity in anything but an arbitrary manner. With regard to prison overcrowding, figures were needed on the number of persons being held in pre-trial detention compared to the number serving sentences.

59. Concerning states of emergency, he would like to know if judicial review was among the rights which could not be derogated from and whether guarantees of the examination of the principle of proportionality would remain in effect. He would also like to hear what the Government had done to comply with the views of the Committee resulting from cases submitted under the Optional Protocol.

60. The situation of the Roma minority remained unacceptable; they were still disadvantaged in all aspects of Covenant rights even though the State party was clearly working to improve their situation.

61. **Mr. Khalil** said that, in combating terrorism, it was important not to lose sight of the need to protect human rights. He noted the substantive changes made in the legal and institutional framework for human rights in Hungary, but asked for an explanation for the overrepresentation of the Roma in the prison population. He also wondered if individuals detained by the police under short-term arrest were permitted to contact a lawyer.

62. **Mr. Vella** said that he would like more information on the qualifications for becoming a judge,

the procedure for removing a judge from office, and details of any such cases. He requested clarification of the nature of the evaluations of the work of the judges as mentioned in paragraph 243 of the report, who conducted them, their consequences and whether any remedy existed for a negative result.

63. Concerning the rights of the accused, he would like to know if a person could be tried in absentia and under what circumstances, and whether the right to an interpreter was guaranteed in court proceedings. Turning to paragraphs 265 to 267 of the report, he would like to know if the provision of free legal assistance by the State was a matter of discretion by the courts, and the reason why such assistance was obligatory only for juvenile offenders.

64. **Mr. Scheinin** said that he was pleased to note that the Constitutional Court recognized the Covenant as having force of law in Hungary. He was concerned, however, that article 57, paragraph 1 of the Constitution seemed to be subject to derogation in a state of emergency.

65. Discrimination against the Roma minority continued to be a cause for concern, and their segregation in the educational system appeared to be widespread. Education was compulsory in most countries, and Governments had an obligation to educate all their citizens, yet the report mentioned that consent of parents was required for enrolment of Roma children in school; he would like to know why. Reports had also been received of derogatory statements about that group by public officials, who should, rather, lead by example. He asked if the political parties had agreed not to use negative stereotypes in the upcoming electoral campaign, and whether there had been any move to include the Roma in the new Government to be formed. Concerning self-governance by minority groups, he wondered if consideration had been given to the use of objective criteria to determine membership in such groups.

66. With regard to women's rights, he would like to know what kinds of jobs were not open to women because of the protective restrictions imposed under the Labour Code. He would also like to hear about any plans to establish a mechanism for restraining orders protecting women against the perpetrators of domestic violence.

67. **Mr. Kretzmer** asked if any other mechanism besides criminal prosecution was available to investigate allegations of torture, ill-treatment or

misconduct against the police. The delegation had explained that the public lacked confidence in public defenders because of past history, but he wondered why they would have more confidence in the Procurator's Office. More information was needed on the weight given to the victim's statement in investigating such allegations and what kind of evidence was required. The allowable duration of pre-trial detention — up to three years — seemed too long; more information was needed about the types of offences for which it was ordered and whether it was at the discretion of the police, the prosecutor or the courts.

68. He would like to know if any laws had been passed to protect women from sexual harassment and whether the police had received any special training in dealing with complaints of rape and sexual assault.

The meeting rose at 1.05 p.m.