



Office for Democratic Institutions and Human Rights

**Information Submitted to the
Office of the United Nations High Commissioner for
Human Rights
as a Stakeholder in the
Universal Periodic Review of Hungary**



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OSCE/ODIHR Submission of Information about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review Process

Participating/Partner State: Hungary

UPR Session and Date of Review: 25th Session, April-May 2016

Background

Hungary is a participating State in the Organization for Security and Co-operation in Europe (OSCE) and has thus undertaken and has recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.¹ The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has been mandated by OSCE participating States, including Hungary, to assist them in implementing their human dimension commitments. OSCE/ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Hungary and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms.

Election-related activities

Parliamentary Elections, 6 April 2014: In response to an official invitation from the Hungarian authorities, based on the findings and conclusions of the OSCE/ODIHR Needs Assessment Mission deployed from 20-23 January 2014, and in accordance with its mandate, the OSCE/ODIHR deployed a Limited Election Observation Mission (LEOM) to observe the 6 April 2014 parliamentary elections. The LEOM was headed by Dame Audrey Glover and consisted of a core team of 13 international experts based in Budapest and 10 long-term observers deployed throughout the country.

According to the LEOM’s final report: “*parliamentary elections were efficiently administered and offered voters a diverse choice following an inclusive candidate registration process. The main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage and campaign activities that blurred the separation between political party and the State*”. In addition, the report notes that “*the legal framework for these elections was amended substantially in recent years. While some changes were positive, a number of key amendments negatively affected the electoral process, including the removal of important checks and balances. A new constitution and a large number of cardinal laws, including electoral legislation, were adopted using procedures that*

¹ Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

circumvented the requirement for public consultation. This undermined support for and confidence in the reform process.”²

Legislation reviewed by ODIHR

Joint Opinion on the Act of Elections of Members of Parliament (Opinion No. 662 / 2012 issued jointly by ODIHR and the Venice Commission on 18 June 2012)

The Joint Opinion notes that the Act is a good basis for the conduct of genuine and democratic parliamentary elections. However, it recommends some changes in the Act, “*essentially to ensure that nationality voters are not limited in their choice and to include clearer procedural guidelines and formulas for the delimitation of electoral constituencies, without defining the constituencies themselves in the Cardinal Act*”. In addition, it notes that “*new legal provisions on fundamental aspects of the electoral process, such as the choice of the electoral system and of the method of distribution of seats or the delimitation of electoral constituencies were not broadly discussed among all the relevant stakeholders and in particular the political parties before adoption...the Venice Commission and the OSCE/ODIHR recommend that any future changes, in particular revision of fundamental provisions of the text be carried out through a broad political consensus in an open, transparent and inclusive manner.*”³

Tolerance and non-discrimination issues, including incidents of and responses to hate crime

The authorities in Hungary and other sources have provided information to ODIHR, most recently for its 2013 hate crime annual reporting cycle. Extracts from this information are included below.

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and the OSCE/ODIHR supports states in their implementation of those commitments. In this context, the OSCE/ODIHR produces an annual report on hate crime to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. It also helps participating States to design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States’ criminal justice agencies, prosecutors, judges and police; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

Information concerning Hungary in the most recent (2014) edition of the annual hate crimes report⁴ referring to incidents occurred in 2013 includes the following:

Information from the Hungarian authorities: Hungary regularly reports hate crime data to ODIHR. This data is collected by the Ministry of Interior, the Prosecutor’s Office and the

² See the full report and recommendations at: <http://www.osce.org/odihr/elections/hungary/121098>.

³ See the Joint Opinion at: <http://www.osce.org/odihr/91534>.

⁴ <http://hatecrime.osce.org/hungary>

Criminal Police Department of the National Police Headquarters as part of general hate crime statistics. Hungary's criminal code contains several substantive offences. The legislation was amended as to include bias against disability, sexual identity and sexual orientation in its hate crime provisions.

In 2013, the police recorded 48 hate crimes with racist and xenophobic bias, two of which were physical assaults.

Starting with its 2012 reporting cycle, ODIHR introduced a system of key observations for all countries, based on OSCE Ministerial Commitments related to hate crime recording and monitoring. In this reporting period, ODIHR observes that the law enforcement agencies of Hungary have not recorded the bias motivations of hate crimes. The authorities should put in place a system which will enable them to record hate crimes by target group.

Information from civil society organizations and groups: In addition to information received from national authorities, ODIHR sent requests for information on hate crimes in Hungary to non-governmental organizations and to international and local civil society organizations and groups. Mahatma Gandhi Human Rights Organization reported a physical assault carried out by a group against a woman of African and Hungarian descent.

On crimes with anti Roma and Sinti bias, the Háttér Society reported a physical assault against three gay men, two of whom were of Roma origin. The Brussels institute and the Federation of Jewish Communities reported a case of desecration of a monument marking the Roma genocide. Finally, World Without Nazism reported a series of physical assaults against three men by a group, one incident of threats against Roma students and one of graffiti.

The same organization also reported incidents with anti-Semitic bias, as five incidents of graffiti, one serious physical assault against the director of a Jewish institute, three incidents of desecration of synagogues and one of desecration of a Holocaust memorial. Several incidents with anti-Semitic bias were also reported by the Federation of Jewish Communities and the Brussels Institute, as one physical assault against a Jewish man, one incident of damage to graves in a cemetery, and one of damage to a *stolperstein* (Holocaust memorial stones set in pavements). The Federation of Jewish Communities reported a further two physical assaults against Jewish men, one case of death threats against a Jewish man and his family, one incident where swastikas were engraved in the elevator of a synagogue, one further damage to a *stolperstein*, two cases of graffiti, one incident of damage to a synagogue, and one incident of desecration of five menorahs on the same night, located in different public spaces in Budapest. The Brussels Institute reported two physical assaults, the desecration of a menorah in a public space during Hanukah, two cases of desecration of graves, two cases of threats, including one incident where a man was spat at, and one incident of property damage against a Jewish woman's house.

One incident of damage to property motivated by anti-Christians and members of other religions bias was reported, in which a Lutheran Church's nativity figures were vandalized.

The Háltér Society reported five physical assaults with anti LGBT bias, two of which resulting in serious injuries and two carried out by groups. Three of those incidents took place in connection with gay pride events. The organization also reported one incident of threats. Transgender Europe reported the murder of a transgender woman.

Information from the Holy See: The Holy See, reported a case of vandalism motivated by anti-Christian bias.

Roma and Sinti issues

The OSCE/ODIHR has a specific mandate to assist participating States in implementing the OSCE Action Plan for Improving the Situation of Roma and Sinti within the OSCE Area.⁵ The most recent Status Report on the implementation of the Action Plan was issued by ODIHR in 2013.⁶ The report included the following information about the situation of Roma and Sinti in Hungary.

The 2013 Status Report points out that, in their reply to the OSCE/ODIHR questionnaire, Hungary listed a number of specific achievements with regard to the improvement of the situation of Roma and Sinti, including the development and adoption of National Roma Integration Strategy and progress in the area of education.⁷ Along with the National Roma Integration Strategy, serious attention has been paid to the development of the local action plans in close cooperation with the Roma Minority Self-Government, a large institutionalized structure of elected Roma representatives employed in municipal offices, which acts as a main stakeholder, decision-making partner and implementer of Roma policy measures.⁸ Thanks to the agreement this body has with the central government, local Roma representatives have had a share in local decision-making regarding policy implementation.⁹

According to the 2013 Status Report, racism and discrimination continued to be an alarming issue in Hungary causing further marginalization of Roma population. This is evidenced by cases of attacks against Roma and/or their property, involving shootings, stabbings and arson attacks, resulting in six deaths (including two of minors) and leaving dozens injured, including ten cases in which the victims were left in critical condition.¹⁰ However, the cases received proper investigation and perpetrators were sentenced. Additionally, there was a practice of anti-Roma rhetoric among political parties in Hungary, accompanied with anti-Roma protests and marches.¹¹ As a response to the issues above, the Hungarian Parliament passed an amendment to the Criminal Code that introduced penalties for intimidating behavior towards ethnic, racial, religious or other groups.¹²

⁵ <http://www.osce.org/odihhr/17554>.

⁶ <http://www.osce.org/odihhr/107406>.

⁷ Ibid, p. 19.

⁸ Ibid, p. 22.

⁹ Ibid, p. 21.

¹⁰ Ibid, p.24.

¹¹ Ibid, p. 26.

¹² Ibid, p. 26.

Despite the efforts undertaken to improve the housing situation for Roma and Sinti, certain problems remain to be challenging, including residential segregation and substandard living conditions.¹³ Hungarian authorities undertook a study to map the housing situation and housing needs of the Roma population to support the creation of better housing policy.¹⁴

Even though more and more programmes appear to improve the issue with the access to the healthcare, small number of achievements can be presented as a positive trend in the area. One of those developments is progress in providing redress to Roma women who have been sterilized without their free and informed consent in the past.¹⁵

Roma continue to face serious disadvantages on the labor market, according to the 2013 Status Report. As stated in the Hungarian Strategy for Social Inclusion, the total Roma employment rate barely reaches 20 per cent; among Roma women, only ten per cent have steady employment.¹⁶ Moreover, the practice of employment of Roma in public work schemes with subsequent cuts in social welfare benefits has worsened the financial positions of some Roma.¹⁷ On the contrary, the fact that Roma employment appeared as a priority area in a number of large mainstream operational programmes supported with large budgets is a positive sign of measures undertaken by Hungarian authorities to solve Roma unemployment problems and improve economic situation among them.¹⁸ According to data from the labor offices in Hungary, national public employment schemes and local government public employment schemes have benefited more than 6,700 and 72,500 previously unemployed Roma people, respectively.¹⁹ In addition, Hungary's Social Land Programme, implemented in close cooperation with the Roma Minority Self-Government, has a positive effect in improving economic conditions of Roma families.²⁰ Furthermore, there are government programmes stimulating formal self-employment through the development of social enterprises and investment grants developing the employment capacity of small businesses that have been enjoyed by both Roma employers and unemployed Roma, thanks to the creation of new jobs.²¹

Although there are significant achievements in the education area highlighted by the 2013 Status Report, there are some challenges remaining related primarily to the segregation of children into "special" education (schools for the mentally disabled) and residential segregation, resulting in all-Roma schools. This problem is evidenced by European Court on Human Rights (ECtHR) judgments on discrimination against Roma children in education.²² Moreover, according to the 2013 Status Report data, only 42 per cent of Roma children aged between three and five attend kindergarten or preschool, which is also particularly typical of

¹³ Ibid, p. 27.

¹⁴ Ibid, p. 32.

¹⁵ Ibid, p. 34.

¹⁶ Ibid, p. 38.

¹⁷ Ibid, pp. 38-39.

¹⁸ Ibid, p. 40.

¹⁹ Ibid, p. 41.

²⁰ Ibid, p. 41.

²¹ Ibid, pp. 41-42.

²² Ibid, p. 43.

disadvantaged Roma settlements and regions where there is a serious shortage of kindergarten capacity, while 88 per cent of non-Roma children in the same age group do so.²³ Other challenging issues are the increase in the number of Roma majority schools, and the decline in teaching quality that contributes to the multiplication of existing social differences between non-Roma and Roma children.²⁴ Simultaneously, Roma children in Hungary are extremely overrepresented amongst children with multiple disadvantages. According to the estimates provided by the 2013 Status Report, approximately one-half of children with multiple disadvantages are Roma, and almost two-thirds of Roma pupils struggle with multiple disadvantages. When it comes to the situation with higher education, the picture is similarly precarious, as report's estimates indicate that only 2 per cent of young Roma begin their studies in higher educational institutions and only 0.5 per cent eventually obtains a degree.²⁵

On the other hand, it is necessary to mention some positive achievements produced in Hungary in the area of education. One of those is the Early Childhood Programme in Hungary, with incentives for attendance for poor families, resulting in 76 per cent of Roma and Sinti children in preschool.²⁶ Moreover, establishment and operation of the Sure Start Child Centres for disadvantaged children and their parents has reportedly improved and supported the integration of Roma children by increasing the number of Roma children enrolled in preschool institutions for one year prior to their enrolment in primary education.²⁷ Another example is the employment of Roma school mediators by education ministries and/or local authorities.²⁸ Additionally, Roma pupils and students benefitted from several scholarship and support programmes in the secondary and higher education.²⁹

There are also positive changes in the area of political participation among Roma in Hungary that has been amplified as a result of new legal provisions mandating the participation of Roma in political bodies. The role of Hungary's Roma Minority Self-Government at the national level was strengthened as a result of a partnership agreement concluded with Hungarian authorities.³⁰ Overall, Roma representation in elected bodies at the municipal level has been enhanced (separately from the elections to the Roma Minority Self-Government).³¹

Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)

Hungary was part of ODIHR's first assembly monitoring cycle in the course of which assemblies were monitored between 5 May 2011 and 9 June 2012. The following findings and recommendations stem from this exercise. The full thematic report is accessible at: <http://www.osce.org/odihr/97055>

²³ Ibid, p. 44.

²⁴ Ibid, p. 44.

²⁵ Ibid, p. 44.

²⁶ Ibid, p. 46.

²⁷ Ibid, p. 47.

²⁸ Ibid, p. 47.

²⁹ Ibid, pp. 48-49.

³⁰ Ibid, p.52.

³¹ Ibid, p.53.

ODIHR monitored multiple official and civil society marches and static rallies for 15 March 2012 national celebrations, including simultaneous protests.

One of the observed assemblies had not complied fully with legal requirements on notification in Hungary. This notified rally called “Rendszervágás” (“Cut the regime”), which was supported by far-right-wing demonstrators, did not disperse at the announced time. They marched towards Szabadság Square, where, *inter alia*, the office of the International Monetary Fund (IMF) resident representative was located. Local police forces deployed around the rally followed the marching crowd of about 100 individuals. The police formed a cordon as protesters briefly entered the IMF building in an attempt to hand over a petition and threw pyrotechnic devices inside the building. Subsequently, the group gathered at a nearby park where a speech was delivered and the assembly voluntarily dispersed shortly afterwards.

ODIHR concluded that it is in line with international standards and good practice, to facilitate assemblies that do not comply fully with relevant legal requirements. This approach, which does not exclude the imposition of sanctions after the event, enables the enjoyment of freedom of peaceful assembly even when the formal and legal requirements for assemblies are not met. It is in line with the principle that any intervention by the State in restricting freedom of assembly should be limited to the minimum extent necessary on grounds that are legitimate under OSCE commitments and international human rights law. Active facilitation, where the assembly remains peaceful, may also have practical advantages from a policing perspective. It is less likely to increase tension and thus facilitates a peaceful outcome.

The Rendszervágás protest was organized in a location adjacent to another assembly organized by the civic opposition group Milla. The Budapest Police set up a police line between the extreme-right-wing supporters of the Rendszervágás event and participants in the Milla assembly who were dispersing at the time, and who were also separated by a fence, although it should be noted that it was possible to move between the two assemblies.³² The two groups verbally confronted each other but the police cordon ensured that no physical confrontation between the groups could take place. No physically violent incidents were observed and, as the Milla demonstration dispersed, the supporters of the Rendszervágás assembly began a march that had not been notified.

ODIHR concluded that in policing demonstrations and counter-demonstrations, the police must ensure that assembly participants are able to convey their message to their audience, while ensuring the safety and security of all individuals present. It recommended, whenever possible, to ensure that any measures taken to physically separate demonstrators and counter-protesters or onlookers, interfere as little as possible with the ability of assembly participants to be within sight and sound of one another or their intended audience.

Other assessments and recommendations contained in ODIHR reports on thematic human issues

³² Police and representatives of the Ministry of Interior explained that they could not directly regulate or stop the flow of people from one location to the other as the police had no legal powers to take measures effectively imposing restrictions on the participation of individuals in public assemblies (interviews with representatives of the Budapest Police and of the Hungarian Ministry of Interior, 11 April 2012).

Gender equality and Democratic Governance

There is no gender parity system for elected and appointed political bodies. The social and cultural norms on the traditional roles and responsibilities of women and men in the family and in society persist³³. While two political parties in Hungary have adopted voluntary quotas for women's participation³⁴, the attempts to introduce legislated temporary special measures have failed³⁵. Further, not only the formal but the informal procedures are hostile towards women: the tone of the parliamentary debates is often sexist and offenders are rarely sanctioned³⁶. This has since the early 1990's led to low representation of women in the Parliament³⁷, the issue is regularly raised by the UN CEDAW Committee and the OSCE/ODIHR Election Observation Mission reports³⁸.

To address the lack of progress in women's political representation, ODIHR closely cooperated with national and international partners in Hungary in 2013-2014. Specifically, a conference on advancing women's role in Hungarian politics was organized in November 2013 in partnership with the Friedrich Ebert Foundation and the Central European University's School of Public Policy for representatives from political parties, members of parliament, policymakers and academics, as well as representatives from civil society and the media³⁹. Furthermore, an ODIHR seminar held in co-operation with the Hungarian Women's Lobby in October 2014 focused on good practices and strategies for supporting women candidates running for local office in Hungary⁴⁰. During the seminar members of parliament and policymakers, as well as representatives of political parties, academia, civil society and the media, discussed challenges women face as candidates for elected office and strategies for improving their access to Hungarian political structures at all levels. More information on these issues can be found in a study on "Women's participation in the Hungarian Parliament"⁴¹, which analyses the current situation of women's representation, identifies main barriers and elaborates recommendations for improving the gender equality situation.

Further, the Hungarian Parliament is yet to adopt a code of conduct for Members of Parliament. The Council of Europe's Group of States against corruption (GRECO) in July 2015 published its 4th round of evaluations for Hungary which recommends the Hungarian parliament *"that a code of ethics/conduct for members of parliament be adopted, including*

³³ The UN CEDAW Committee Concluding observation on the combined 7th and 8th period reports of Hungary. <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.C.HUN.CO.7-8.doc>

³⁴ Hungarian Socialist Party (MSzP) has a 20 % quota for women and Politics Can be Different (LMP) party's electoral lists maximum two repeated candidates of the same sex may follow each other. Source: Quota project <http://www.quotaproject.org/uid/countryview.cfm?CountryCode=HU#additional>

³⁵ Further background on the introduction of quotas can be found in the report : Women's representation in the Hungarian Parliament, 15 December 2013: A Study Report <http://www.osce.org/odihr/117575>

³⁶ The concern is raised at the UN CEDAW Committee Concluding observations. Ibid.

³⁷ The number of women MPs across previous parliamentary elections in Hungary has remained at 8-11% which is below OSCE average of 25%. Source: IPU database http://www.ipu.org/parline/reports/2141_A.htm .

³⁸ CEDAW Committee Concluding observation on the combined 7th and 8th period reports of Hungary. <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.C.HUN.CO.7-8.doc>

³⁹ OSCE/ODIHR website news item: <http://www.osce.org/odihr/108425>

⁴⁰ OSCE/ODIHR website news item: <http://www.osce.org/odihr/125036>

⁴¹ This study commissioned and published by ODIHR is available in English at <http://www.osce.org/odihr/117575>

in respect of their staff as appropriate – covering various situations of conflicts of interests (gifts and other advantages, third party contacts, lobbyists, accessory activities, post-employment situations etc.) and that it be complemented by practical measures for its implementation, such as dedicated training and counselling". ODIHR stands ready to support the Hungarian Parliament with developing and implementing a code of conduct. For this purpose ODIHR in 2012 published a Background Study: Professional and Ethical Standards for Parliamentarians⁴². The background study seeks to support participating States when developing and implementing codes of ethics for Members of Parliament by identifying the main concerns and possible obstacles that need to be considered while reforming, developing and designing parliamentary standards of conduct, including, but not limited to, codes of conduct.

Migration

Hungary was among those OSCE participating States, which representatives of key national authorities⁴³ participated in conference "Exploring challenges to political participation of migrants in the OSCE region" organized by ODIHR in co-operation with the European University Institute (EUI) in Florence (Italy) on 18-19 June 2015. This conference was organized with a view to raise awareness among OSCE participating States of the importance of including migrants in democratic governance processes.⁴⁴

⁴² This study is available at <http://www.osce.org/odihr/98924?download=true>

⁴³ Representatives of Austria, Canada, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Montenegro, Portugal, Romania, the Russian Federation, Serbia and Switzerland participated in this conference.

⁴⁴ The conference provided an opportunity for participants from state institutions of the above-mentioned participating States and academia to exchange good practices and analyze challenges and lessons learned in implementing OSCE commitments focused on political participation of migrants in the OSCE region.