



Permanent Mission of Hungary to the United Nations Office  
and Other International Organizations in Geneva

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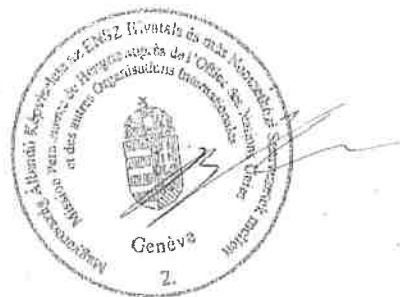
The Permanent Mission of Hungary to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and with reference to the Latter's Note Verbale No: 000316, dated 26 January 2019, has the honour to forward Hungary's contribution to the information collected in accordance with resolutions A/HRC/39/41 and A/HRC/36/21 on measures and best practices on countering intimidations and reprisals.

Hungary, as one of the main sponsors of the resolution A/HRC/36/21 "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights" attaches great importance to this issue.

The Permanent Mission of Hungary would be grateful to receive confirmation of the receipt of the present Note Verbale.

The Permanent Mission of Hungary to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Attachment: 2



**Office of the High Commissioner for Human Rights**

**GENEVA**



## Hungary – good practices against reprisals

### General approach

#### **Steps preventing, addressing, investigating and reporting acts of intimidation and reprisals**

The Government established the Human Rights Working Group in its decision adopted in February 2012 (Government Resolution 1039/2012 (II.22).) with the main purpose of monitoring the implementation of human rights in Hungary, conducting consultations with civil society organisations, representative associations and other professional and constitutional bodies as well as of promoting professional communication on the implementation of human rights in Hungary.

The Working Group monitors the implementation of the fully or partially accepted recommendations in relation to Hungary of the United Nations, Human Rights Council, Universal Periodic Review (UPR) Working Group. Due to the modification of the Government Resolution, the Working Group also reviews and monitors the enforcement of human rights conventions and agreements – of which Hungary is a signing party – adopted in the framework of the UN, the Council of Europe, the OSCE, and the obligations arising from Hungary's EU membership. It makes recommendations to the Government and the other central administration bodies involved in legislation and application of the law to provide regulations that allow for a wider representation of human rights and oversees the implementation of these regulations.

The Working Group operates the Human Rights Roundtable, which currently operates with 70 NGO members and further 40 organisations take part in the activities of the thematic working groups with the right of consultation. The Roundtable holds its meetings in 11 thematic working groups. At the thematic working group sessions NGOs and government representatives regularly discuss the international obligations of Hungary and monitor the implementation of the recommendations of international organizations. The members exchange their experiences on communication with international organizations and participation in international projects as well.

On 25 October 2017, representatives of four international organisations (UN/OHCHR, OSCE/ODIHR, CoE/EYCB, EU/COM) participated on the joint meeting of Thematic Working Group Responsible for the Freedom of Expression and Thematic Working Group Responsible for Other Civil and Political Rights and made presentations on how NGOs can take part in the work of these organisations and how they can contribute to their work. Furthermore, the Secretariat of the Human Rights Working Group prepared a document to the members of the Human Rights Roundtable on how NGOs can engage with international and regional human rights mechanisms. This document is updated regularly.

There is no criminal offence that expressis verbis provides rules on the intimidation or reprisal of persons who seek to cooperate or have cooperated with the UN. Depending on all of the circumstances of the case, though, the general rules may apply. This means that an attack against such a person can be prosecuted most likely under either of the following criminal offences:

- homicide (section 160),

- battery (section 164),
- kidnapping (section 190),
- violation of personal liberty (section 194),
- coercion (section 195),
- harassment (section 222),
- slander (section 226),
- libel (section 227), or
- violence against public officials, persons performing public duties, persons providing assistance to public officials or persons performing public duties or persons under international protection (sections 310-313)
- as provided for by Act C of 2012 on the Criminal Code.<sup>1</sup>

Also, if the attack does not reach the seriousness required by the Criminal Code, then it might still be punishable under section 173 on serious threat as provided for by Act II of 2012 on infringements, procedure on infringements and the records of infringements.

### Specific responses

#### Concerning question a) of the information request

**What is the legal and policy framework at the national level to ensure the right to participation at the international level, including unhindered access to and communication with international bodies, in particular the UN?**

At the legislative level, the Act No. CCXL of 2013 on the implementation of penalties, certain coercive measures and offenses, Act No. LXXX of 2007 on Asylum, Ministerial Decree No. 27/2007 on the Rules of the Execution of Arrest Warrants and Ministerial Decree No. 29/2013 on the Rules for the Implementation of Asylum Custody and Asylum Bail provides for contact rights and unhindered (uncontrolled) communication with competent international organizations such as the UN.

#### Concerning question b) of the information request

**What measures have been taken by your Government at the national level to ensure national investigations and accountability on allegations of intimidation and reprisals?**

The convicted person and the detainee on other grounds may submit an application in connection with the detention and may file a complaint against the decision on the detainment and have the right to appeal. If the law allows the appeal, it must be communicated to the convicted person and the prisoner on other grounds. The convicted person and other detainees may apply directly to the prosecutor's office which oversees the enforcement of detainment, request a hearing with the public prosecutor, apply directly to the Commissioner for Fundamental Rights, request a complaint to the competent international organization.

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<sup>1</sup> For the detailed rules of the above written criminal offences, please see the attachment.

The Prosecutor's Office exercises supervision over the enforcement of punishments and other coercive measures, in which they have statutory rights and obligations. According to Act No. XXXIV of 1994 on the Police a detained person is entitled to a complaint against a police action. A detainee can complain not only to the police department that takes the police action, but also to the Independent Police Complaints Board.

In a guarded accommodation, a detained person has a fundamental right to complain. The complaint may be made orally or in writing. Locked complaints boxes are located in guarded accommodation in enclosed accommodation, which can only be emptied by the staff of the guarded accommodation. Submissions from the complaint box will be judged based on their content by the head of the guarded accommodation and forwarded immediately to the competent authority in the absence of competence. The detainees are also given the opportunity to complain independently of the Police, have the opportunity to complain in writing to their delegations, authorized legal representatives, legal advocates, human rights organizations and in the course of monitoring procedures the International Red Cross, International Organization for Migration, the Prosecutor's Office or the United Nations High Commissioner for Refugees.

In the guarded accommodation, the supervisory prosecutors carry out regular checks every two weeks, examining the enforcement of the rights of detainees. They regularly consult with the detainees, who have the opportunity to submit their complaints. In the event of a violation of law, an objection is made to the police department responsible for detention, which must immediately take action to end the violation.

Under the Act on the Commissioner for Fundamental Rights, the National Preventive Mechanism functions under Article 3 of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall be carried out by the Commissioner for Fundamental Rights. The complainant or the notifier shall not be penalized for making a complaint or making a public statement. Anyone who makes a negative action against the applicant because of a public interest announcement will commit an offense.

Concerning question c) of the information request

**How has your Government contributed to initiatives at the international or regional levels to encourage the prevention of acts of intimidation and reprisals?**

For 20 years, Hungary has taken care of the "Reprisals" resolution at the UN, which was a consensus decision until 2012. Some states blocked the decision in 2013 (e.g. China, Cuba, Egypt, Russia, Venezuela, Republic of South Africa), and as a consequence, the UN General Assembly suspended its management for 2 years. After lengthy negotiations, Hungary submitted its decision again in September 2017, which was backed by a significant support team, as 60 Member States participated in the consultation of the draft, which was confirmed by the UN General Assembly. Accepting this was a widely recognized step in the Hungarian human rights diplomacy, which was also commended by the Director of the Office of the United Nations High Commissioner for Human Rights.

