



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

To:  
**Ms. Jane Connors**  
**Chief**  
**Special Procedures Branch**  
**Office of the United Nations High Commissioner for Human Rights**

Geneva, 17 June, 2013

*Jane,*  
Dear Ms. Connors,

Please, find attached the response by the Government of Hungary to the joint urgent appeal UA G/SO 214 (67-17) G/SO 214 (107-9) HUN 2/2013/ sent on 16 May, 2013 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. May I ask your kind cooperation to forward this response to the two distinguished Special Rapporteurs.

Let me reiterate that Hungary attaches primordial importance to having a close, cooperative and meaningful relationship with all the mechanisms of the Human Rights Council, as well as with the Office of the High Commissioner for Human Rights.

Sincerely yours,

*András Deák*  
András Deák  
Ambassador



**Response by the Government of Hungary to the  
Joint Urgent Appeal**

**UAG/SO 214 (67-17) G/SO 214 (107-9)**

**HUN 2/2013 dated 16 May, 2013**

**(Szöllősi Case)**

Following the joint urgent appeal of 16 May 2013 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders concerning the alleged physical attack, intimidation and official harassment of Mr Gábor Szöllősi, staff member of the Hungarian Civil Liberties Union and resident of the village of Érpatak in Szabolcs-Szatmár–Bereg county, the Hungarian Government proceeded to a thorough examination of this case. As a result of this procedure, during which Mr Szöllősi was also contacted, the Government provides the following answers to the questions formulated by the Special Rapporteurs:

- 1.) The facts described in the summary of the joint urgent appeal are correct. The “local high-ranking official” mentioned in the summary is in fact the mayor of the village who, however, while initiating the lawsuits against Mr Szöllősi, acted in his private and not in his official capacity.
- 2.) Complaints were lodged by Mr Szöllősi or by his legal representative on all of three cases described in the summary of the urgent appeal.
- 3.) The Police initiated investigations in all the three cases following the complaints filed by Mr Szöllősi or by his legal representative. The investigation initiated on the suspicion of attempting to commit the felony of grievous bodily injury is in progress. The investigations initiated on the two announcements in connection with damaging the residence have been suspended and terminated indeed, because the identity of the perpetrator(s) could not have been determined on the basis of the data available in the process, thus their continuation was not expected to bring any result.
- 4.) The closed cases did not result in any accusation.
- 5.) Being explicitly offered of the possibility at the beginning of the procedure Mr Szöllősi declined any personal protection either for himself or the members of his family.
- 6.) There are no specific legal provisions on human rights defenders in Hungary. However the Hungarian legal system provides – via the *Fundamental Law (Constitution)*, the *Equal Treatment Act*, the *CSO Act*, the *Civil Code* and the *Criminal Code* – comprehensive and complex legal protection for all natural and legal persons for the pursuit of their peaceful activities, in full conformity with the international standards, quoted in the joint urgent appeal.

The relevant pieces of the Hungarian legislation are described in details below:

**a.) Article VIII Para 2 of the Fundamental Law of Hungary** enshrines the right to form organisations by providing that every person shall have the right to establish and join organisations.

The related detailed rules are elaborated in **Act CLXXV of 2011** on the *Right of Association, Public-Benefit Status, and the Operation and Funding of Civil Society Organisations (henceforth: CSO Act)*. Under Section 3 of the CSO Act the right of association is a fundamental freedom to be guaranteed for everyone, based on which everyone is entitled to establish organizations or communities together with others, or to join existing organizations or communities. Under the right of association natural persons and – in line with the objectives of their activities and the intent of their founders – legal persons and legal persons' non-legal person organizations may establish and operate organizations. Based on the right of association organizations may be established for the pursuit of any activities not violating the Basic Law and not prohibited under the law.

**b.) Article XV Para 2 of the Fundamental Law of Hungary prohibits negative discrimination.** It provides that Hungary shall ensure the fundamental rights to everyone, without any discrimination on the grounds of race, colour, sex, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever.

The guarantees specified in and arising from the Fundamental Law are elaborated in **Act CXXV of 2003** on *Equal Treatment and the Promotion of Equal Opportunities (henceforth: Equal Treatment Act)* which Act, among others, ensures compliance with and implements Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Under Section 1 of the Equal Treatment Act, **any provision as a result of which a person or a group is treated less favourably on account of his/her real or presumed**

- a) sex,
- b) racial origin,
- c) colour,
- d) nationality,
- e) national or ethnic origin,
- f) mother tongue,
- g) disability,
- h) health status,
- i) religious or ideological conviction,
- j) political or other opinion,
- k) family status,
- l) motherhood (pregnancy) or fatherhood,
- m) sexual orientation,
- n) sexual identity,
- o) age,
- p) social origin,
- q) financial status,

- r) the part-time nature or definite term of their employment relationship or other work relationship,
  - s) the membership of an organisation representing employees' interests,
  - t) other status, attribute or characteristic
- than another person or group in a comparable situation, shall amount to direct discrimination.

**Under Section 2**, provisions not amounting to direct negative discrimination and apparently complying with the principle of equal treatment but putting certain persons or groups having a characteristic specified Under Section 1 in a disadvantageous situation in considerably greater proportion than other persons or groups in a comparable situation are or were or would be put, shall amount to indirect discrimination.

**Based on these provisions, Section 10 (3) provides that any conduct causing or aimed at causing infringement to or threatening a person** on account of their filing a complaint about or initiating proceedings because of a violation of the principle of equal treatment, and any conduct causing or aimed at causing infringement to or threatening a person assisting in such proceedings, shall amount to retribution.

**Under Article 3** of the Equal Treatment Act, claims arising from a violation of the principle of equal treatment may be enforced in procedures specified in the Act on the General Rules of Administrative Official Procedures and Services, or in procedures specified under other Acts, thus – in particular – in personality rights actions or labour actions or in official proceedings conducted by consumer protection, labour or regulatory authorities.

Compliance with the equal treatment requirement is supervised by the Equal Treatment Authority. **The main tasks of the Equal Treatment Authority are the following:** as a body entitled to bring claims on behalf of the general public, it may file actions for the protection of violated rights of persons or groups; it regularly reports to the general public and the Government on the observance of the equal treatment principle; it provides information to those concerned and grants assistance to actions taken against violations of the equal treatment principle.

Section 20 (1) grants public prosecutors, authorities as well as social and interest representation organisations standing to file personality rights actions or labour actions on account of violations of the principle of equal treatment, provided that the violation is related to a characteristic deemed to be constituting an essential feature of the personality or is directly related to the essence of personality, and the violation affects a larger, unspecifiable group of persons.

**At present the applicable sanctions are contained in Act CXL of 2004 on the General Rules of Administrative Official Procedures and Services.**

**Section 169/I provides:**

- (1) Upon finding an infringement of the principle of equal treatment, the authority may:
- a) order to terminate the infringement;
  - b) prohibit for the future engagement in the unlawful conduct;
  - c) order the publication of its final decision establishing the infringement;
  - d) impose a fine;

- e) apply a legal consequence specified in other laws.
- (2) The legal consequences specified in subsection (1) shall be determined with due regard to subsection (1) of Section 94/A.
- (3) The legal consequences specified in subsection (1) may be imposed simultaneously.
- (4) The amount of the fine shall be between fifty thousand HUF and six million HUF.
- (5) Where the authority finds that an employer obliged to adopt equal opportunities plan has failed to comply with this obligation, it shall invite the employer to make up for the omission and – by properly applying subsections (2) and (3) – it may impose sanctions specified in subsection (1) c)-e).

**Section 94/A provides:**

- (1) Where a fine – except for a procedural fine mentioned in Section 61– may be imposed under the laws, the authority shall decide on the imposition of fine and shall determine its amount in light of the circumstances of the case. In doing so it shall, in particular, assess:
  - a) the disadvantage caused by the infringement, including the costs related to the prevention or mitigation of the disadvantage and the benefits earned by the infringement;
  - b) whether the disadvantage caused by the infringement is reversible;
  - c) the number of persons affected by the infringement;
  - d) the duration of the infringement;
  - e) the repetitions and frequency of the infringement;
  - f) the offender's cooperation in the ensuing proceedings; and
  - g) the infringer's economic weight.

**c.) Both Act IV of 1978 on the Criminal Code**, in force at present, and **Act C of 2012 on the Criminal Code**, entering into force on 1 July 2013, **protect the life, bodily integrity, health, liberty, human dignity, fundamental rights and property of natural persons, without discrimination on any ground.** The criminal provisions safeguarding these rights are applicable to everyone, not to specific persons. The criminal provisions governing, for example, homicide, bodily injury, violation of personal liberty, coercion, abuse of personal data, criminal trespass, libel, defamation, abuse of office or property damaging shall sanction all attacks made against the rights of any persons. The criminal laws contain no specific provisions on the protection of persons acting on behalf of human rights organisations since the general protection afforded to everyone under the criminal laws is applicable to them as well.

**In conclusion, the Hungarian legal and administrative system, in conformity with the international standards and obligations taken by Hungary, provides all the necessary legal safeguards and administrative mechanisms to protect the rights and freedoms of any person, including human rights defenders, in the conduct of their legitimate and peaceful activities. In the case of Mr Szöllősi the legal protection is in place, all the procedures engaged by him or his legal representative were/are conducted according to and in full respect of the relevant legal provisions.**

Budapest, 12 June 2013