



**Permanent Mission of Hungary to the United Nations Office, the World Trade Organization
and other International Organizations in Geneva**

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The Permanent Mission of Hungary to the United Nations Office, the World Trade Organization and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the joint communication no. OL HUN 1/2025, dated 9 April 2025 sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Working Group on discrimination against women and girls, has the honour to forward in attachment the Hungarian Government's observations to the aforementioned joint communication.

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



**Office of the United Nations High Commissioner for Human Rights
Geneva**

Comments by Hungary

on the Joint Communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Working Group on discrimination against women and girls (ref.: OL HUN 1/2025)

The Hungarian Government has reviewed the aforementioned joint communication and it strongly contests its conclusions. The joint communication appears to be based on an incomplete summary of the legal amendments in question, while misrepresenting the legal context in which these amendments are embedded.

GENERAL REMARKS

Members of Parliament have recently tabled a proposal to amend Hungary's Fundamental Law, which would, among other things, constitutionally enshrine that the right of the child to proper physical, mental and moral development takes precedence over all other fundamental rights, with the exception of the right to life. The amendment is expected to enter into force on 15 April 2025.

It should also be stressed that Hungary already provides a level of child protection which is outstanding across Europe. According to Section 6/A. of the Child Protection Act, in force since 2021, it is prohibited to make pornographic content available to children under the age of eighteen, as well as content that depicts sexuality in a self-serving manner, or promotes or displays gender reassignment or homosexuality.

In order to strengthen long-standing process, the National Assembly also decided to amend Act LV of 2018 on the Right of Assembly (hereinafter referred to as: „Assembly Act”).

FAST-TRACK ADOPTION OF THE LEGISLATION

It should be pointed out that the amendment of the Assembly Act will not enter into force until 15 April 2025, in line with the amendment to the Fundamental Law already presented. Recipients of the legislation will have sufficient preparation time to adapt to the legislation.

The use of the exceptional procedure did not in any way affect the intended content of the legislation, and it was not tabled by the Government but by a group of MPs. The Parliament may use this procedure, which it enjoys a large degree of freedom in applying, a total of four times every six months. As the legislation is essentially a reflection of the expected amendments to the Fundamental Law and is very short in length, we are of the opinion that the use of the fast-track procedure does not raise any concerns.

THE PROHIBITION OF A PEACEFUL ASSEMBLY

Section 13 and 14 of the Assembly Act already provides for a number of reasons to prohibit or limit the holding of an assembly. The law, adopted in 2018 and not amended since then, is also fully in line with the requirements of the ECHR. Paragraph 2 of Article 11 states that „no restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”. In our view, the amendment is in line with these criteria, as it introduces restrictions to protect the rights and freedoms of others, notably the rights of children.

However, the law does not prohibit such meetings on a mandatory basis, it can only be interpreted as meaning that it should be forbidden to hold an assembly that is in violation of a prohibition specified in the above-mentioned section of the Child Protection Act or presents the core element of a prohibited content defined in that section.

However, such assembly could only be prohibited if the assembly authority, according to the information available after the consultation, determines that there are valid grounds to assume that the notification of an assembly relates to the holding of an assembly that is forbidden under the Assembly Act.

The Assembly Act – in line with the standards of the ECHR – also provides the possibility of an appeal in court. Within three days from the communication of the decision, the organiser may challenge the decision of the assembly authority in an administrative court action. The assembly authority shall forward the claim to the court within three days and the court shall adopt its decision in three days.

THE DISCRIMINATORY NATURE OF THE AMENDMENT

The amendment does not discriminate against these groups. As explained above, the law applies to all the prohibitions set out in the Child Protection Act, such as pornography, self-serving display of sexuality, deviation from the identity of the sex of birth, gender reassignment, and the promotion and display of homosexuality. The possibility remains open for persons belonging to these groups to hold meetings that do not conflict with these prohibitions.

INFRACTIONS RELATED TO PEACEFUL ASSEMBLIES

Section 189 of the Act II of 2012 on infractions, infraction procedure and the infraction records system (hereinafter referred to as „Infraction Code”) already provides for a number of infractions related to the abuse of the right of assembly. A new element is indeed added to the law, taking into account that the prohibition should not be circumvented in any way. However, it should also be noted that the Constitutional Court of Hungary has emphasised in a number of decisions that the same strict standards should be applied to infractions as to criminal offences. In the light of the above, the establishment of liability for an infraction is not automatic, but is subject to a procedure before the infringement authority, which is duly defined by law, and is also subject to the possibility of appeal before the courts. It should also be pointed out that the

new offence definition allows for a fine (or a lighter penalty, such as a warning) at most, so the „severe penalties” mentioned in the letter are not in place. Another special feature of the new type of infraction is that even if a fine is imposed, there is no possibility to convert it into detention or community service.

THE USE OF MODERN SURVEILLANCE TECHNOLOGIES

In this respect, it is necessary to underline that the law does not provide for the introduction of any new type of surveillance tool. The National Assembly adopted the Act CLXXXVIII of 2015 on the facial image analysis register and the facial image analysis system (hereinafter referred to as „FAAS Act”) and since it came into force, it is applicable in many areas.

This law is fully in line with the European Union's data protection rules, in particular the Law Enforcement Directive („LED”). However, this law does not allow for real-time „monitoring”, as the systems involved are not suitable (and were not designed) for this type of activity. The only change to the existing system is that it can now also be applied to all infractions laid down in the Infraction Code; as previously some infractions were not included.

The purpose of the FAAS Act is precisely to provide strict rules for activities involving the processing of biometric data in criminal or infraction proceedings. The system is based on a comparison between the submitted facial image and the one stored in the state personal register. This system does not work as an „automatism”, it is a time-consuming process that requires human intervention. The comparison is always made on a case-by-case basis, taking into account the principle of purpose limitation.

The „appropriate safeguards” indicated in your letter are therefore given, and the recordings and the comparison can only be used in the infraction procedure, not in any other case.