

**Mandates of 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**

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(Please use this reference in your reply)

9 April 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/9, 50/17, 52/4, 50/10 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government some observations concerning three recent pieces of legislation introduced before the Parliament, including to amend the constitutional Fundamental Law (*T/11152, Fifteenth Amendment to the Fundamental Law of Hungary*, currently under consideration by the Legislative Committee); to amend related legislation, including the Equal Treatment Act (*T/11153, On certain amendments related to the fifteenth amendment to the Fundamental Law*, currently under consideration by the Legislative Committee); and to amend the Act on the Right of Assembly (*T/11201, Amendment of Act LV of 2018 on the Right of Assembly related to the protection of children and related acts*, enacted and published on 18 March 2025).

The aforementioned draft and recently enacted legislative measures have been assessed against international human rights standards and rule-of-law principles, leading to the following observations:

*General comments*

The signatory Special Procedures mandate holders' view of the aforementioned legislation is that that the legislative provisions run counter to Hungary's international human rights legal obligations not to discriminate in the protection of human rights based on any status.

In line with concerns previously raised in the communication transmitted by United Nations Special Procedures mandates to the Government of Hungary on 15 December 2020 (OL HUN 3/2020), these latest legislative initiatives appear to continue promoting the fundamentally flawed and discriminatory notion that "protecting" the health and morality of children necessitates extensive restrictions on the enjoyment of human rights, including freedom of expression, freedom of peaceful assembly, the right to privacy, and the rights of the child, among others.

These legislative amendments to the Act on the Right of Assembly were enacted in the context of high-profile political speech by Government leaders expressing discriminatory views toward lesbian, gay, bisexual, trans and other gender-diverse (LGBT) persons in Hungary, as well as those advocating for their human rights. These amendments do not appear to meet the requirements of necessity and proportionality for legitimate restrictions on the right to freedom of peaceful assembly. The imposition of these apparently unlawful content-based limitations on peaceful assemblies was apparently framed in a manner and timeframe that was intended to prohibit the holding of the Pride March scheduled to take place in Budapest on 28 June 2025.

The proposed amendments to the Fundamental Law and related legislation, particularly the Law on Equal Treatment, which are currently under consideration by the Legislative Committee, would establish a basis for these and further unlawful restrictions on the human rights to freedom of expression and peaceful assembly. In particular, they rely on the discriminatory assertion that the peaceful expression of gender-diverse identities poses a threat to public health and morality, especially that of children. The proposed criminalization of speech and assemblies related to the human rights of LGBT persons, as well as those advocating for their human rights, would also infringe upon the right to privacy, through amendments expanding the use of biometric facial recognition technology in the context of peaceful assemblies, with the effect of threatening, deterring, and targeting individuals seeking to exercise their rights to freedom of expression and peaceful assembly.

In its October 2018 resolution 39/11, the Human Rights Council encouraged Governments to give due consideration to the *Guidelines for States on the effective implementation of the right to participate in public affairs*, submitted to the Council pursuant to its resolution 32/22 by the Office of the United Nations High Commissioner for Human Rights. The *Guidelines* elaborate, among other basic principles underpinning the effective implementation of the right to participate in public affairs, that “States should create and maintain a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs,” including by guaranteeing “the equal participation of individuals and groups in the design, implementation and evaluation of any law, regulation, policy, programme or strategy affecting them. Effective remedies should be available if this right is violated.” (*Guidelines for States on the effective implementation of the right to participate in public affairs*, p. 6, available at: [https://www.ohchr.org/sites/default/files/2021-12/GuidelinesRightParticipatePublicAffairs\\_web.pdf](https://www.ohchr.org/sites/default/files/2021-12/GuidelinesRightParticipatePublicAffairs_web.pdf).)

#### *The rights to freedom of expression and freedom of peaceful assembly*

Adopted through a so-called “exceptional (or extraordinary) procedure” with only one day of deliberation prior to passage, the recently enacted amendments to the Act on the Right of Assembly establish a new basis for authorities to ban peaceful assemblies, prohibiting any assembly that “violates the prohibition set forth in Section 6/A of Act no. XXXI of 1997 on the protection of children and guardianship administration (hereinafter: Child Protection Act) or that displays a substantial element of the content prohibited under Section 6/A of the Child Protection Act.”

Section 6/A of the Child Protection Act unlawfully prohibits minors from accessing content that “depicts sexuality in a gratuitous manner or that propagates or

portrays divergence from self-identity corresponding to sex at birth, sex change or homosexuality”. In this regard, we recall that access to information is a fundamental element of the human right to freedom of expression.

On the basis of these content-based restrictions, the amendments to the Act on the Right of Assembly prohibit the holding of assemblies calling for the equality and human rights of LGBT persons. Violations of these misdemeanor criminal provisions are to be sanctioned through fines. They criminalize not only the assembly organizers, but also any individual “who takes on a role as a participant or contributor at such an assembly”.

In June 2024, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI) presented his report to the 56<sup>th</sup> session of the Human Rights Council (A/HRC/56/49) focusing on unlawful restrictions on the rights to freedom of assembly, association and expression based on sexual orientation and gender identity.

The restrictions imposed by the recently enacted legislation are inconsistent with article 19 of the Universal Declaration of Human Rights (UDHR), which affirms that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” They also run counter to article 20(1) of the UDHR, which provides that “everyone has the right to freedom of peaceful assembly and association.”

The International Covenant on Civil and Political Rights (ICCPR), which Hungary ratified over 50 years ago in 1974, similarly guarantees the right to freedom of peaceful assembly under article 21 and affirms in article 19 the right of everyone to hold opinions without interference and the right to freedom of expression. This includes the right “to seek, receive and impart information and ideas of all kinds,” encompassing not only information that is favorable, but also that which may criticize, shock, or offend.

The Human Rights Committee, in its general comment No. 34, stated that freedom of expression, including therefore the right to access information, “is a necessary condition for the realization of the principles of transparency and accountability, which are, in turn, essential to the promotion and protection of human rights” (CCPR/C/GC/34, para. 3). To give effect to the right of access to information, “States parties should proactively put in the public domain government information of public interest” and “make every effort to ensure easy, prompt, effective and practical access to such information” (paras 18 and 19). The Special Rapporteur on freedom of opinion and expression has encouraged States to review their regulatory and institutional frameworks, mechanisms and tools to guarantee and promote the right of access to information and transparency in the most comprehensive and fullest manner possible. The action of States should tend in this direction and, in any measure adopted, take into account the impact on this right that any measure that may be adopted may have, in order to avoid setbacks in this area.

With regard to articles 19 and 21 of the ICCPR, the Human Rights Committee has clarified that States must ensure that any restrictions on the rights to freedom of

expression or peaceful assembly pursue a legitimate objective as permitted under the Covenant, and that such restrictions are both necessary and proportionate to achieve that objective (CCPR/C/GC/34, para. 35; CCPR/C/GC/37, para. 36). Restrictions must not unduly intrude upon other rights and must constitute the least intrusive means to that legitimate aim. The State bears the burden of proof to demonstrate that any restriction is compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35).

Any laws that restrict the rights to freedom of expression and peaceful assembly must, according to the Human Rights Committee, “themselves be compatible with the provisions, aims and objectives of the Covenant.” In particular, “[l]aws must not violate the non-discrimination provisions of the Covenant” (CCPR/C/GC/34, para. 26), including those prohibiting discrimination on the basis of sexual orientation and gender identity (CCPR/C/GC/37, para. 25).

While the protection of “public morals” may constitute a legitimate purpose for certain restrictions on individual freedoms, it can never serve as a pretext for prejudice or a tool for discrimination. Moral disapproval of same-sex conduct, even if widely held, does not constitute a legitimate ground for restricting fundamental human rights.

The Human Rights Committee has specifically observed that “[r]estrictions on peaceful assemblies should only exceptionally be imposed for the protection of ‘morals’. If used at all, this ground should not be used to protect understandings of morality deriving exclusively from a single social, philosophical or religious tradition, and any such restrictions must be understood in the light of the universality of human rights, pluralism and the principle of non-discrimination. Restrictions based on this ground may not, for instance, be imposed because of opposition to expressions of sexual orientation or gender identity.” (CCPR/C/GC/37, para. 46)

For those reasons, the aforementioned provisions of the recently enacted legislation do not conform to the strictly and narrowly construed limitations to freedom of expression permitted under international human rights standards, including under the ICCPR. Their application would therefore constitute a *prima facie* violation of the human rights to freedom of expression and peaceful assembly in an unjustified manner.

Of relevance to the underlying provision of section 6/A of the Child Protection Act, the Human Rights Committee has found that a conviction under a so-called “LGBT propaganda” law constituted a violation of the ICCPR, particularly with respect to the rights to freedom of expression and to equal protection under the law without discrimination (CCPR/C/106/D/1932/2010). The Committee on the Rights of the Child has similarly expressed concern that a so-called “LGBT propaganda” law, justified in terms of protecting children, in fact inflicts harm on individuals, including children, and recommended for the repeal of such legislation (CRC/C/RUS/CO/4-5).

With regard to peaceful assemblies, the Human Rights Council has reminded States of their obligation “to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or

beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law” (A/HRC/RES/21/16, para. 1).

The Human Rights Committee has likewise emphasized that “States must ensure that laws and their interpretation and application do not result in discrimination in the enjoyment of the right of peaceful assembly, for example on the basis of race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status” (CCPR/C/GC/37, para. 25).

The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests indicates that “specific, supportive and protective efforts should be made to facilitate the right to freedom of peaceful assembly of individuals or groups that may be in situations of vulnerability, that have been subjected to discrimination or marginalization or that may face particular challenges in participating in assemblies” including lesbian, gay, bisexual, transgender, queer and intersex persons (A/HRC/55/60, para. 15).

and the Protocol also specifically states that, in order to protect and facilitate the right to freedom of peaceful assembly of individuals and groups in situations of vulnerability, including LGBTQI, law enforcers should actively (A/HRC/55/60, para. 65):

- a) “Develop and implement specific supportive strategies aimed at promoting and protecting the rights of individuals and groups in situations of vulnerability in the context of protests” including, among others, the establishment of “protocol on the prevention and provision of immediate response to harassment or attacks on these groups, including sexual and gender-based violence”; and creation of “systems for the continuous monitoring of potential threats or acts of retaliation against these groups”.
- b) “Foster communication with relevant stakeholders, including civil society organizations and community leaders, to understand the specific protection needs of such individuals and groups,” and “involve, as appropriate, representatives from the identified groups in the planning stages of a protest to ensure that their perspectives are considered”.
- (c) “Ensure that deployed officers are trained to mitigate and respond to the specific protection needs of these groups and that dedicated rapid response teams are available to provide assistance, whenever required”.
- (d) “Consider establishing specific complaint mechanisms within independent investigation units or oversight bodies, including the development of separate mechanisms for children and for victims of sexual and gender-based violence”.

### *The right to privacy*

Further compounding the aforementioned concerns regarding apparently unlawful restrictions on the rights to freedom of expression and freedom of peaceful assembly, the recently enacted amendments to the Act on the Right of Assembly also provide for expanded use of biometric facial recognition technologies to target, identify, and punish participants in such “prohibited assemblies” in contravention of internationally accepted standards for the use of such technology in law enforcement activities.

The United Nations Human Rights Council has underscored the importance of the right to privacy for the realization of the right to freedom of peaceful assembly, including in relation to arbitrary surveillance and data collection that may unlawfully restrict this right, such as through the use of biometrics-based facial recognition technology. (Human Rights Council resolutions 34/7 and 38/7; see also: *Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests*, Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/44/24.)

The Human Rights Committee has further clarified, in relation to States Parties’ obligations under the ICCPR, that “[t]he mere fact that a particular assembly takes place in public does not mean that participants’ privacy cannot be violated. The right to privacy may be infringed, for example, by facial recognition and other technologies that can identify individual participants in a crowd.” (CCPR/C/GC/37, para. 62)

### *Non-discrimination*

The proposed amendment to the Equal Treatment Act would remove “gender identity” as a protected characteristic under the 2003 law, while retaining “sexual orientation.” It would also extraordinarily restrict protections based on “sex” to cover only “identity in line with sex”. The removal of protections against discriminatory treatment for individuals who diverge from discriminatory expectations based on presumed biological sex undermines the *sine qua non* of any protection from discrimination based on sex. In this case, the intention of the proposed amendments appears to be to strip transgender individuals of protection from discrimination in areas such as education, employment, healthcare, housing, social services and access to goods and services. This would be despite the existing prohibition of discrimination based on “other status” in the Equal Treatment Act, which should continue to be interpreted and applied to ensure equal protection for all persons, regardless of their sexual orientation or gender identity.

Since March 1994, the Human Rights Committee has repeatedly reaffirmed, in relation to article 18 and the ICCPR as a whole, that “the reference to ‘sex’ in articles 2, paragraph 1, and 26 of the ICCPR is to be taken as including sexual orientation.” (See, *Toonen v. Australia* CCPR/C/50/D/488/1992.) In numerous subsequent concluding observations, the Committee has urged State parties to guarantee equal rights to all individuals, as established in the Covenant, regardless of their sexual orientation.

In relation to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Hungary also ratified in 1974, the Committee on Economic,

Social and Cultural Rights has affirmed that the Covenant's non-derogable prohibition on discrimination includes discrimination based on sexual orientation, gender identity, and sex characteristics. The ICESCR obligates States parties to ensure the enjoyment of all economic, social and cultural rights without discrimination of any kind (article 2), including based on sexual orientation or gender identity, as the Committee has elaborated upon in multiple general comments on States' obligations under the Covenant. (See e.g., E/C.12/GC/20, E/C.12/2000/4.)

In its concluding observations, the Committee has repeatedly called on States to adopt legislation to protect LGBT and intersex persons from discrimination (see, e.g., E/C.12/HND/CO/2, E/C.12/SDN/CO/2, E/C.12/ITA/CO/5, E/C.12/IRQ/CO/4, E/C.12/UGA/CO/1, E/C.12/1/Add.107, and E/C.12/1/Add.80). The Committee has likewise praised States for the adoption of such legislation (see, e.g., E/C.12/ALB/CO/2-3, E/C.12/1/Add.35, E/C.12/1/Add.70, E/C.12/LIE/CO/1, E/C.12/MCO/CO/1, and E/C.12/CO/BRA/2).

In 2016, the Committee clarified that non-discrimination: "encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons, to be fully respected for their sexual orientation, gender identity and intersex status. [...] States parties also have an obligation to combat homophobia and transphobia, which lead to discrimination". (See E/C.12/GC/22, general comment No. 22, at para. 23).

We would like to recall the obligations assumed by your Excellency's Government, through the ratification on 22 December 1980, of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and more particularly, obligations to take all appropriate measures to achieve the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (article 5) and to take all appropriate measures to eliminate discrimination against women in the political and public life of the country (article 7). In its latest review, the CEDAW committee recommended that Hungary amend the relevant national legislation, in particular the Fundamental Law (Constitution) and the Civil Code to provide adequate protection against hate crimes against lesbian, bisexual, transgender and intersex women (CEDAW/C/HUN/CO/9, para. 24).

In its implementation of the Convention on the Rights of the Child, which Hungary ratified in 1991, the Committee on the Rights of the Child has urged States to "repeal all laws criminalizing or otherwise discriminating against individuals on the basis of their sexual orientation, gender identity or intersex status and adopt laws prohibiting discrimination on those grounds" (CRC/C/GC/20, para. 34).

In a joint statement marking the International Day against Homophobia, Biphobia and Transphobia on 17 May 2015, UN Special Procedures mandate holders, the UN Committee on the Rights of the Child, the Special Representative of the UN Secretary-General on Violence against Children, the Council of Europe Commissioner on Human Rights, and regional human rights institutions called for an end to discrimination and violence against LGBT young people and children. They proclaimed: "States must act to overcome prejudice and stereotypes through anti-discrimination initiatives in schools and public education campaigns. [...] The health and well-being of all children and young adults must be protected, including through

ensuring access to non-discriminatory health services and comprehensive sexuality education, and by protecting the rights of all children and young adults to their identity, autonomy, and physical and psychological integrity.” (Statement available at: <https://www.ohchr.org/en/statements/2015/05/discriminated-and-made-vulnerable-young-lgbt-and-intersex-people-need?LangID=E&NewsID=15941>.)

In March 2023, several Special Procedures mandate holders jointly published a *Compendium on Comprehensive Sexuality Education*, demonstrating the broad consensus among international human rights mechanisms that binding international human rights obligations require the protection of the rights to education, freedom of expression, and access to information. These obligations include ensuring that young persons – including LGBT children – can access comprehensive sexuality education without discrimination on any grounds. (Compendium available at: <https://www.ohchr.org/sites/default/files/documents/issues/health/sr/Compendium-Comprehensive-Sexuality-Education-March-2023.pdf>.)

### *Conclusion*

We reiterate the legal obligation of Your Excellency’s Government to ensure that the development, adoption, and implementation of all legislation without discrimination based on any prohibited ground, including on the basis of sexual orientation or gender identity.

In light of the foregoing observations based on international human rights law standards, we urge the Parliament of Hungary to repeal the recently enacted *Amendment of Act LV of 2018 on the Right of Assembly related to the protection of children and related acts*, and to reject the bills currently under consideration: *Fifteenth Amendment to the Fundamental Law of Hungary*, (currently under consideration by the Legislative Committee); and *On certain amendments related to the fifteenth amendment to the Fundamental Law*.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the legislation addressed in this communication, including your Government’s views on the above analysis.
2. Please provide details of the process by which these three pieces of legislation were developed – such as why the extraordinary procedure was deemed necessary, and whether there was sufficient time provided to carry out meaningful and inclusive consultations – and any assessment undertaken to ensure that the provisions contained in the legislation comply with Hungary’s obligations under international human rights law, including the rights to freedom of expression and assembly.
3. Please provide details of how the domestic legal framework safeguards the rights of all persons of diverse sexual orientations and gender

identities, and how these pieces of legislation are consistent with those legal requirements implementing Hungary's international human rights obligations.

4. Please provide information on how the domestic legal framework protects the rights of human rights defenders and those advocating for the rights of LGBT persons in Hungary, so that they can carry out their legitimate work in a safe and enabling environment without fear of attacks, harassment or other intimidation.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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