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The Committee on the Elimination of Discrimination against Women (CEDAW Committee)

Re: Supplementary information on Hungary
Scheduled for review by CEDAW on August 20, 2002

Dear Committee Members:

This letter is intended to supplement the periodic report submitted by the Republic of Hungary, which is scheduled to be reviewed by the CEDAW Committee during its Exceptional session. The Center for Reproductive Law and Policy (CRIP) and NANE, independent non-governmental organizations, hope to further the work of the Committee by providing independent information concerning the rights protected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This letter highlights several areas of concern related to the status of women's reproductive and sexual health and rights in Hungary. Specifically, it focuses on discriminatory or inadequate laws and policies related to Hungarian women's reproductive rights.

Because reproductive rights are fundamental to women's health and equality, states parties' commitment to ensuring them should receive serious attention. Further, reproductive health and rights are explicitly protected in CEDAW. Article 12 requires states parties to "take all appropriate measures to eliminate discrimination against women in the field of health care," and specifies that governments should ensure access to "appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation."¹ Article 10(h) requires that women have "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning."²

The Committee's General Recommendation on Women and Health considers it the responsibility of states parties to "[e]nsure the removal of all barriers to women's access to health services, education and information, including in the area of sexual and reproductive health," and to "[p]rioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance."³

We wish to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women in Hungary:

1. Right to Health Care, including Reproductive Health Care and Family Planning (Articles 12, 14(2)(b) and (c), and 10(h) of CEDAW)

As noted above, Article 12 of CEDAW requires states parties to ensure that all women have access to services related to pregnancy, confinement, and the postnatal period and have adequate nutrition during pregnancy and lactation. Article 10(h) requires that women have “access to ... information and advice on family planning.” Article 14 (2)(b) and (c) directs states parties to ensure that women in rural areas have access to adequate health care, including information, counseling, and family planning services, and that they benefit directly from social security programs. In its General Recommendation on Women and Health, the CEDAW Committee affirms that access to health care, including reproductive health care, is a basic right afforded to women under CEDAW.⁴

A. Contraception

While Hungary’s health policy provides for free or highly subsidized health services for its population, its practice of addressing reproductive health primarily under the rubric of maternal health care results in inadequate health coverage for women.⁵ There is no coverage for contraception and women who use contraceptives must pay for them out-of-pocket.⁶ Only on limited social and medical grounds will the state insurance cover the costs of contraceptive pills.⁷ Even under these circumstances, only a few types of pills (e.g. Antecovin and Rigevidon) qualify for this special coverage. Because the qualifying pills are associated with the most extreme side effects, this option is seldom exercised by women.⁸

Hormonal contraceptive prices range from USD 6.10 to USD 14.30 per three months’ dose.⁹ The prices of condoms vary from USD 0.60 to USD 0.80 for a package of three.¹⁰ IUDs can cost up to USD 136.¹¹ With women’s average monthly gross income in 1999 at USD 244,¹² the cost of contraceptives remains prohibitive for most women. Women with young children are especially vulnerable as they receive only about USD 100/month in maternity support, depending on the number of children they have.¹³

B. Abortion

Hungary recently amended its abortion law to make it more difficult for women to access abortion services. This change, which runs counter to the global trend toward abortion law liberalization, was effected despite the risks to health and life associated with restrictions on abortion services.

To have an abortion in Hungary, women are required to undergo biased counseling with a health employee who must attempt to persuade the woman to carry the pregnancy to term. The health employee is required to give information on the financial, moral, and social help available from state and non-state actors for parents; the possibilities of adoption; the dangers of abortion; and the development of the fetus. After the first counseling session, the woman must wait a minimum of three

days for a second mandatory counseling session, during which she is given information on abortion methods, legal requirements for obtaining the procedure, medical institutions that offer it, and the availability of post-abortion assistance.¹⁴ In seeking to dissuade women from exercising their right to an abortion, the Department for the Representation of Women, within the Hungarian Ministry of Social and Family Affairs, has funded the publication of a brochure by anti-abortion groups that provides misleading medical information on the harms of abortion (see brochure excerpts enclosed). The brochure exaggerates the physical effects of abortion, claims that abortion causes breast cancer, characterizes abortion as the killing of human life and includes drawings of babies being mutilated with knives.¹⁵ The brochure in itself constitutes a barrier to safe and legal abortion services by interfering with women's autonomous and informed decision-making.

Hungary has further sought to restrict abortion access by revoking its subsidization of abortion services.¹⁶ The new law permits government funding for abortion only in cases of medical necessity, serious social or financial hardship, and where pregnancy results from a crime.¹⁷ Otherwise, the woman must pay for her abortion, which costs USD 68 in a state hospital.¹⁸ The high cost of abortion procedures primarily affects low-income women, who do not have the means to pay for legal abortion services in hygienic settings.

2. Violence Against Women (Articles 5 and 16(c) of CEDAW)

CEDAW requires state intervention to prevent gender-based violence. Article 5 calls upon states to “modify the social and cultural patterns of conduct of men and women” in order to eliminate practices based on the idea of women's inferiority. In addition, violence against women within marriage and the family is condemned by Article 16(c), which guarantees women and men the same “rights and responsibilities during marriage....”

The CEDAW Committee, in its General Recommendation 19 on Violence against Women, recognizes that gender-based violence denies women enjoyment of their rights and freedoms on a basis of equality with men.¹⁹ The Committee defines “gender-based violence” as “violence that is directed against a woman because she is a woman or that affects women disproportionately.”²⁰ It includes acts that inflict sexual harm or suffering.²¹ The Committee emphasizes that CEDAW is concerned not only with acts of gender-based violence perpetrated by governments, but also those acts committed by private parties. Governments have a duty to act with due diligence to prevent such acts among all individuals living within their jurisdictions.²²

A. Domestic Violence

The Hungarian Penal Code does not recognize domestic violence as a separate crime and the Minister of Justice has specifically stated that domestic violence legislation is not needed, asserting that such legislation would be positive discrimination and is not

required by Hungary's international obligations.²³ This omission leads to a lack of effective measures for women seeking legal protection from domestic abuse. For example, the law does not provide for the remedy of protective orders against abusive partners. Additionally, stalking, a typical strategy of abusive partners who intend to create fear and disruption in women's lives, is not recognized as a crime under Hungarian law. Neither law enforcement officials nor courts make an effort to guarantee the safety of abused women and their children.²⁴

B. Incest and Rape

While incest is legally recognized as a crime,²⁵ it has not been the subject of consistent or vigorous investigation and prosecution. An average of only 3.5 cases per year over a ten-year period ended in conviction of a male offender.²⁶

Rape is another crime in Hungary that is inadequately investigated and prosecuted, due both to the requirements of the Penal Code²⁷ and the biases of law enforcement officials and courts. There is no specialized training or education provided to law enforcement officials to deal with sex crimes. To the contrary, the textbook for police academy students devotes more than three pages to teaching how to prove that the alleged rape victim is lying.²⁸ Consequently, investigations are ineptly and inappropriately pursued.

C. Sexual Harassment

Sexual harassment is not recognized as an offense under Hungarian law in either the civil or penal code. Therefore, women who are victims of sexual harassment in their workplaces have little legal redress.

We hope that the Committee will consider addressing the following questions to the Hungarian government:

1. What steps is the government pursuing to provide comprehensive reproductive health services, including family planning services and information, to all women?
2. What measures are being taken to redress discriminatory coverage of health services, and, in particular, the lack of subsidization for contraceptives and abortions, especially for low-income women?
3. What procedures is the government taking to enact legislation as well as to guarantee women's physical safety in cases of domestic violence and sexual harassment? Is specific training for police officers and doctors regarding the treatment of rape victims being instituted?
4. What steps are being pursued to ensure that law enforcement and court officials are sensitized to gender concerns in sex crimes and that such crimes are vigorously

prosecuted? What attempts, if any, have been made to change the behavioral patterns of society in general, to prevent violent acts against women from occurring in the first place?

Finally, we have included the following supporting documentation for the Committee's reference:

- ♦ The chapter on Hungary in *Women of the World: Laws and Policies Affecting Their Reproductive Lives, East Central Europe* (CRLP ed. 2000).
- ♦ Briefing paper authored by CRLP, *Trends in Reproductive Rights: East Central Europe* (2001).
- ♦ Excerpts of a brochure funded by the Ministry of Social Affairs given to women seeking abortions.

There remains a significant gap between CEDAW's guarantees and the reality of women's reproductive health and lives. We appreciate the active interest that the CEDAW Committee has taken in women's reproductive health and rights and the strong concluding observations and recommendations the Committee has issued to governments in the past, stressing the need for steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Hungarian government's compliance with the provisions of CEDAW. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

¹ Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].

² *Id.*

³ Committee on the Elimination of Discrimination against Women (CEDAW Committee), *General Recommendation 24, Women and Health*, art. 12, paras. 31(b)(c), U.N. Doc. A/54/38/Rev.1 (1999), available at <http://www.un.org/womenwatch/daw/cedaw/recomm.htm> (last visited July 25, 2002). [hereinafter *General Recommendation 24, Women and Health*].

⁴ *Id.* para. 1.

⁵ See THE CENTER FOR REPRODUCTIVE LAW AND POLICY (CRLP), WOMEN OF THE WORLD: LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES-EAST CENTRAL EUROPE 58 (2000) [hereinafter WOMEN OF THE WORLD].

⁶ See *id.* at 59.

⁷ See MAGYAR GYÓGYSZERKÖNYV [HUNGARIAN REGISTRY OF MEDICINES].

⁸ Several practicing OB/GYN specialists interviewed by NANE have never helped women exercise this legal option. Given the undesirability of the approved pills, the women themselves seldom wish to do so. See communication from NANE (on file with CRLP).

⁹ See e-mail from Judit Wirth, Executive Director, NANE, to Christina Zampas, Legal Advisor, The Center for Reproductive Law and Policy (July 23, 2002, 10:34 EST) (on file with CRLP).

¹⁰ See WOMEN OF THE WORLD, *supra* note 6, at 59.

¹¹ See *id.*

¹² See MINISTRY OF FAMILY AND SOCIAL AFFAIRS, STATISTICAL BOOK (2001).

¹³ See Act LXXXIV of 1998 on the Support for Families (1998).

¹⁴ See Act LXXXVII of 2000 on the Amendment of Act LXXIX on the Protection of Fetal Life of 1992, adopted on June 22, 2000, art. 9, reprinted in INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS (IHF), WOMEN 2000: AN INVESTIGATION INTO THE STATUS OF WOMEN'S RIGHTS IN CENTRAL AND SOUTH-EASTERN EUROPE AND THE NEWLY INDEPENDENT STATES 199-200 (2000) [hereinafter Act LXXXVII of 2000].

¹⁵ ED BERGS ET AL., BOOKLET BY "CRY FOR LIFE" GROUP (2001). The booklet was commissioned by Hungarian Association of Christian Doctors and funded by the Ministry of Social and Family Affairs. The Israeli Pro-Life group had provided the resource materials for the booklet. The following organizations also helped with the booklet: Alfa League, Association for the Protection of the Fetus, Pro-Life Foundation, WOMB-Hungarian Lifesaver Homepage (English trans.), and Golyahir Association.

¹⁶ See Act LXXXVII of 2000, *supra* note 14, art. 16.

¹⁷ See *id.*

¹⁸ See Welfare Ministry Order no. 32/1992 (XII.23), NM Order, Section 13, Ministry of Health.

¹⁹ CEDAW Committee, *General Recommendation 19, Violence against Women*, para 1, U.N. Doc. A/47/38 (1992), available at <http://www.un.org/womenwatch/daw/cedaw/recomm.htm> (last visited July 25, 2002).

²⁰ *Id.* para. 6.

²¹ *Id.*

²² See *id.* para. 9.

²³ See response letter from Ms. Ibolya David, Minister of Justice, to a May 23, 2000 request by NGOs to establish domestic violence legislation (June 9, 2000) (on file with NANE).

²⁴ Between 52-150 women are murdered each year in incidents of domestic violence. There is no estimate as to the number of women who die from the indirect results of such abuse (e.g. suicide). In a population of ten million people, approximately one million women are beaten yearly by their spouses. See Tóth Olga, *Domestic Violence: Research* (1999); Morvai Krisztina, *Terror a családban [Terror in the Family]* (1998).

²⁵ See 1978 évi IV, Törvény a Büntető Törvénykönyv [Act IV of 1978 on the Criminal Code], art. 203 [hereinafter BTK].

²⁶ The research was performed in 2000 by NANE and covers all available data from the period 1990 to 1999. During that same time, an average of one woman per year was also convicted for incest. See Ministry of Justice and the Prosecutor's Office, Research of the Joint Statistical Data (on file with NANE).

²⁷ See BTK, *supra* note 25, art. 197.

²⁸ See Dr. Endre Barla, *A nemi erkölcs elleni bűncselekmények nyomozása [Investigating crimes against sexual morals]* 8, 10-27 (2000).