

Universal Periodic Review (39th session)
Contribution of UNESCO

Hungary

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
<i>Convention against Discrimination in Education 1960</i>	State Party since 16/01/1964	Reservation to this Convention shall not be permitted		Right to education
<i>Convention concerning the Protection of the World Cultural and Natural Heritage (1972)</i>	05/07/1985 Acceptance			Right to take part in cultural life
<i>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</i>	17/03/2006 Ratification			Right to take part in cultural life
<i>Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)</i>	09/05/2008 Ratification	Declaration of the European Community in application of Article 27(3) (c) of the Convention indicating the competences transferred to the Community by the Member States under the Treaties, in the areas covered by the Convention.		Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of Hungary¹ enshrines the right to education for Hungarian citizens, therefore it does not apply to all within the territory.
2. The main education law is the Act CXCV of 2011 on National Public Education.² It refers to the right to education but is narrowly defined as it states, “the right for free and compulsory primary education, free and generally accessible secondary education, until the obtaining of the secondary school-leaving certificate as well as the training for the first vocational qualification” (Section 2.1). Compulsory education starts at six and ends at sixteen with primary and secondary education free for a period up to twelve years.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Freedom of expression is protected in the Constitution – the Fundamental Law within Art. IX, as well as in the 2010 Media Act³ and the 2010 Freedom of Press Act⁴.
4. Defamation is placed within both civil and criminal law. The Hungarian Civil Code cites defamation as a breach of a person’s personality rights (Section 2:43)⁵, while the Criminal Code sets out defamation as an offence punishable by imprisonment for up to two years (Art. 226) and libel as an offence punishable by imprisonment for up to one year (Art. 227).
5. The right to access public information is recognized by the Fundamental Law and the Freedom of Information Act⁶. While the Freedom of Information Act has been relatively stable, changes to other sectoral laws have continued, corroding the overall transparency and access-to-information framework. In 2013, Hungary amended the Freedom of Information Act in order to prevent ‘abusive’ information requests⁷. In 2016, the Government issued a Decree, which empowers public institutions to require the reimbursement of the costs incurred by the requests of access to public information in case replying to the request would entail additional work on the part of the public authority⁸.

¹ <http://www.unesco.org/education/edurights/media/docs/4fafe795f8ef78bc55695bb4421f788e41447ddc.pdf>

² <http://www.unesco.org/education/edurights/media/docs/4d944ba6609209811a59b8c01aa2da071fc221e5.pdf>

³ Act CLXXXV of 2010 on Media Services and on the Mass Media

⁴ Act CIV of 2010 on the Freedom of the Press.

⁵ See the Act V/2013 promulgating the Civil Code on the International Labour Organisation website:

https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=96512&p_lang=en

⁶ Act CXII of 2011 on the Right to Informational Self-determination and on Freedom of Information

⁷ Act XCI of 2013 (‘Lex Átlátszó’)

⁸ Government Decree 301/2016 of 30 September 2016. Out of the 300 complaints addressed by the National Authority for Data Protection and Freedom of Information in 2018, about 10% concerned the unjustified application of fees (National Authority for Data Protection and Freedom of Information (2019).

6. In March 2020, the Hungarian Parliament passed a “coronavirus” law allowing the government to rule by decree during the state of emergency for an indefinite period. The legislation includes a provision for sentences of up to five years in prison for spreading disinformation.

Implementation of the Law:

The National Media and Infocommunications Authority (NMHH) is the country’s regulatory body established in 2010 with the adoption of the Media Act mentioned above⁹. The Media Council is the decision-making body of the NMHH. The President of the authority is appointed by the Prime Minister, thus becoming also the President of the Media Council, while the council’s members are elected by the Parliament – with the two-thirds majority of votes¹⁰. According to the European Commission, in practice these rules have not prevented the governing party from nominating all five members of the Media Council putting at risk the independence of this body¹¹.

8. By Government Decree¹², the November 2018 merger of more than 470 media outlets into the ‘KESMA’ media conglomerate was exempted from scrutiny by the Competition Authority and the Media Authority by declaring it ‘a merger of strategic national importance’ thereby preventing the authorities from scrutinizing it, as reported by the European Commission¹³.
9. The Editors-in-Chief’s Forum Hungary (Főszerkesztők Fóruma) is an industry NGO established in 2012. It gathers editors of all major electronic, print and online media in Hungary on a voluntary basis. Its main objectives include strengthening ethics in journalism and formulating media self-regulation procedures. In 2015, the Forum laid out ethical standards and values of journalism.
10. Several press organisations operate in the country. The list includes but is not limited to the Hungarian Press Union and the National Association of Hungarian Journalists.

Safety of journalists:

- UNESCO has recorded no killing of journalist in Hungary since systematic reporting began in 2008.

⁹ See the NMHH’s official website: <https://english.nmhh.hu/the-nmhh>

¹⁰ See the Part IV Chapter II of the Media Act in the NMHH’s report: https://nmhh.hu/dokumentum/2791/1321457199hungary_new_media_regulation_eng_web.pdf

¹¹ EU rule of law report p.13: [hu_rol_country_chapter.pdf \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/rol/country/chapter/pdf/?uri=CELEX:52020SC0316&from=EN)

¹² Government Decree 229/2018 of 5 December 2018.

¹³ EC’s 2020 Rule of Law report on Hungary p.14: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0316&from=EN>

III. Review and specific recommendations

A. Education

Refugees, asylum-seeking and migrants

- The Committee on the Right of the Child highlighted in its recent report that education certificates issued to children in transit zone schools are not valid in Hungary.¹⁴ UNESCO has issued general recommendations in order to enforce the right to education of refugees, among which, one recommendation focuses on the necessity to guarantee the right to education during all phases of the displacement.¹⁵ Therefore, Hungary could be encouraged to recognize such certificates, as their non-recognition is another barrier to the achievement of their right to education, while they already face many due to their difficult situation.

Roma children

- While 95,6% of children aged 4-6 participate in early childhood and education, with a Roma participation close to 91% on 2016, early school leaving rates remains high (12,5% in 2018) and more particularly for Roma children (65,3%).¹⁶ Furthermore, the Committee on the Right of the child has also highlighted that segregation of Roma children in schools is continuing.¹⁷

Corporal Punishment and other violence

- While the Act on National Public Education prohibits corporal punishment (Section 46 (2)), this legal provision is not fully respected within the schools.¹⁸ Furthermore, there are not enough protection against other kind of violence in schools, notably against bullying, abuse and exclusion of lesbian, gay, bisexual, transgender and intersex children in schools.¹⁹

Covid-19²⁰

- Mid-March 2020, Hungary closed its schools to prevent the spread of the Coronavirus.²¹

Specific recommendations:

10. Hungary should be encouraged to:

¹⁴ Committee on the Rights of the child, Concluding observations on the sixth periodic report of Hungary, 3 March 2020, para 38.

¹⁵ UNESCO, Enforcing the right to education of refugees, a policy perspective, 2019, p. 68.

¹⁶ European Commission, Education and Training Monitor 2019, Hungary, p.6.

¹⁷ Op. cit. Committee on the Rights of the child, para. 35.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ No further relevant information found. MOE website has not been updated since 2010

²¹ <https://en.unesco.org/covid19/educationresponse>

- Fully implement the provisions of the UNESCO Convention against discrimination in education, to which it is party since 1964.
- Continue to progress towards inclusive education, especially by increasing measures in order to avoid that Roma children drop out and ensure that they are enroll in the mainstream education system.
- Intensify its efforts to ensure that all children have access to quality education, especially by addressing barriers faced by refugees, asylum seekers and migrants, including the non-recognition of certificate issued in transit zones.
- Pursue its efforts in order to ensure that schools comply with the legislation prohibiting corporal punishment.
- Adopt measures to prevent bullying, abuse and exclusion of children, with a particular attention for lesbian, gay bisexual, transgender and intersex children; and put measures in place to address it.
- Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education.²²

B. Freedom of opinion and expression

11. Hungary should decriminalise defamation and place it solely within civil code, in accordance with international standards.
12. It is recommended that the Government review the legal provisions related to freedom of information and data protection in order to guarantee free and uncontrolled access to public information²³.
13. The Government should enable a free media ecosystem that fosters self-regulatory approaches and media independence.
14. It is recommended that Hungary adopt a legislation ensuring the transparency of the distribution of state advertising and transparency of media ownership.
15. Efforts to fight the pandemic should respect international standards for human rights, including the rights to freedom of expression, access to information, and privacy. Any new restrictions must be necessary and proportionate, in law and time-bound.

C. Cultural rights

²² <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

²³ As recommended also in the end of mission statement by Special Rapporteur on the situation of human rights defenders, Visit to Hungary 8 - 16 February 2016.

16. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)²⁴, the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)²⁵ and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)²⁶, Hungary is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Hungary is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

17. Hungary submitted its National Report on the implementation of the Recommendation on the Status of Scientific Researchers (1974) for the Second Consultation covering the period from 2013 to 2016 (<http://unesdoc.unesco.org/images/0025/002592/259256e.pdf>). Hungary reported that the guiding principles of the 1974 Recommendation, including the principles of non-discrimination, freedom and autonomy of scientific researchers, respect for their human rights and fundamental freedoms, are reflected in the Fundamental Law of Hungary dated 25 April 2011, whose Article X stipulates the following: “(1) Hungary shall ensure the freedom of scientific research and artistic creation, the freedom of learning for the acquisition of the highest possible level of knowledge and, within the framework laid down in an Act, the freedom of teaching. (2) The State shall have no right to decide on questions of scientific truth; only scientists shall have the right to evaluate scientific research. (3) Hungary shall protect the scientific and artistic freedom of the Hungarian Academy of Sciences and the Hungarian Academy of Arts. Higher education institutions shall be autonomous in terms of the content and the methods of research and teaching; their organisation shall be regulated by an Act. The Government shall, within the framework of an Act, lay down the rules governing the management of public higher education institutions and shall supervise their management.” [Act LXXVI of 2014 on Scientific Research, Development and Innovation](#) and the National Research and Development and Innovation Strategy (2013-2020) contain provisions on career development of young researchers, international co-operations, and the protection of intellectual property. With regard to the right to disseminate the research results and the protection of publications by copyright law, Hungary indicated that Open Access has been supported through legislation as from 2012 when decision no. 27/2012 (IX.24) of the President of Hungarian Academy of Sciences renewed its publication policy based on Open Access. The decision obliged state subsidized researchers of the Hungarian Academy of Sciences to ensure the free availability of their future publications through green, gold or hybrid open access. Apart from that, the following initiatives also were undertaken, such as launch of the first open access journal, the establishment of the first

²⁴ Periodic Report available at: <http://whc.unesco.org/document/137745>

²⁵ Periodic Report available at: <http://ich.unesco.org/doc/download.php?versionID=22441>

²⁶ Periodic Report available at: <http://en.unesco.org/creativity/governance/periodic-reports/submission/6902>

institutional repositories of research institutions and higher education institutions, and the creation of the bibliographic database that contains accessibility related information. Equal opportunities are guaranteed in Hungary by the Fundamental Act; the promotion of the achievement of equality of opportunity is also laid down in Article XV of the Fundamental Act.

18. “ (...) (3) Women and men shall have equal rights. (4) By means of separate measures, Hungary shall promote the achievement of equality of opportunity and social inclusion. (...)”. In the Higher Education Strategy of Hungary: Objectives 2.1.2: Development of a higher education system creating opportunities, ensuring social advancement and broad access and 2.2.6: To increase the number of female higher education teachers and researchers in areas they are underrepresented in and in leadership positions and related actions.
19. Hungary is encouraged to report to UNESCO on the implementation of the newly adopted Recommendation on Science and Scientific Researchers (2017), which supersedes the 1974 Recommendation, on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers, as well as human rights obligations related to science, the principle of non-discrimination, including urging active promotion of women and girls entering scientific careers, as well as the scientists’ rights of autonomy, freedom of research, expression and publication.