

THE FRAMEWORK THAT COULD ENSURE THE PROTECTION OF
HUMAN RIGHTS

While there is a need to address detailed recommendations made to Hungary in the previous UPR cycle that relate to particular human rights areas, the framework that should ensure the protection of human rights through independent institutions, checks and balances and inclusive decision-making procedures has been shattered over the past decade in Hungary. This means that the plethora of problems described in detail in the various submissions to Hungary's third UPR cycle cannot be sustainably addressed unless action is taken to rebuild the institutional-legal framework in which human rights are practised and protected.

Since the last UPR cycle, further deterioration took place in key areas. Laws are drafted and adopted without any meaningful consultation, including those that restrict rights of marginalised groups. Supposedly independent human rights institutions are ineffective, inactive or filled in a partisan way. Hungary's NHRI was recently suggested to be downgraded to B status by GANHRI's Subcommittee on Accreditation (SCA) for failing to meet the Paris Principles. Attacks against judicial independence and civil society continued at both the narrative and legislative level. Hungary's worsening track record of the implementation of judgments of the European Court of Human Rights and the Court of Justice of the European Union, coupled with the growing use of legislative overriding of judgments are a clear sign of the disruption of judicial oversight. Hungary, uniquely among EU member states, is featured several times in the UN Secretary-General's annual reports on reprisals against organisations and individuals cooperating with the UN.

General recommendation:

Create an enabling environment that is conducive to a pluralist democratic society where independent institutions protecting human rights, in cooperation with civil society organisations, serve as effective checks and balances.

Selected specific recommendations:

- Ensure the meaningful constitutional review of laws by restoring the Constitutional Court's independence and powers.
- Leaders of institutions protecting human rights should be nominated in open, transparent and inclusive consultations with the broadest range of stakeholders and through open calls for applications.
- Address the SCA's concerns regarding the functioning of the Commissioner for Fundamental Rights.
- Restore the independence of the Equal Treatment Authority.
- Ensure judicial independence and self-governance by structurally reinforcing the National Judicial Council in line with the recommendations of the Venice Commission and the Council of the EU, and by curbing the excessive powers of the President of the National Judicial Office e.g. in relation to judicial leadership appointments.
- Ensure that judges are allowed to freely express their views on the rule of law, judicial independence, and the protection of human rights.
- Take the necessary legal measures to fully comply with the decisions of the European Court of Human Rights, the Court of Justice of the European Union and ordinary domestic courts.
- Strengthen legislative processes, "especially for laws affecting the enjoyment of human rights, by ensuring that mechanisms are in place to guarantee a transparent, inclusive and participatory process, including with opposition politicians, civil society, other relevant stakeholders and the general public, with adequate opportunity and time for meaningful review and proper debate of legislative proposals and amendments", as recommended by the UN Human Rights Committee.
- Guarantee impartial and independent decision-making and management of state funding programs to civil society involving elected CSO representatives.
- Re-organize and expand consultative bodies ensuring proportional and meaningful participation for civil society representatives.
- Re-join the Open Government Partnership and actively undertake commitments regarding the design and implementation of action plans within its framework.
- Refrain from introducing any further legislation that limits the freedom of association or assembly in any way.

Read the joint NGO analyses and the full lists of recommendations on the [rule of law](#) and [shrinking civic space](#), and our briefs on the [rights of refugees, migrants and stateless persons](#), and on [criminal justice and hate crimes](#). For further information, contact us at helsinki@helsinki.hu.