

**THE COMMISSIONER FOR FUNDAMENTAL RIGHTS
THE NATIONAL HUMAN RIGHTS INSTITUTION OF THE UNITED NATIONS
HUNGARY**

*21 January, 2013
Budapest*

To the attention of:

Committee on the Elimination of Discrimination Against Women (CEDAW)
OHCHR
United Nations
Geneva

Dear Madam/Sir,

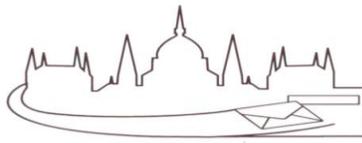
With reference to the information sent by CEDAW concerning the upcoming session of the committee in February 2013, I hereby provide you the following information on the latest activities of our Office regarding the issue of discrimination against women in Hungary:

1. COMPLAINTS: The Office of the Commissioner for Fundamental Rights (CFR) of Hungary, until now, has **not got any complaints concerning discrimination against women or women's rights**. The CFR, however has examined some women's rights related issues that raised mayor public concern, as follows.

2. WOMEN'S RIGHTS, SELF DETERMINATION: In his statement of **October 2010**, the CFR **recalled** that there is an **urgent need** to draw up both the **professional minimum standards and the legal and ethical instruments of homebirth** in Hungary. Considering the needs of the civil society and partial interests of the obstetrics, he also decided to evaluate the present situation based upon human rights considerations. Earlier, in his recommendation of October 2007 Prof. Dr. Máté Szabó called the attention of the legislator and the professional circles to the urgent need of introducing the appropriate legal regulation in order to protect the basic rights of mother and child. Recalling this conclusion, the Ombudsman emphasized that the state's objective and institutional obligation is to protect and guarantee the constitutional right to life and to human dignity of all individuals. He argued that people may practice their basic rights according to their own needs and freedoms, but it is the state, which is obliged to guarantee the effectiveness of these basic rights. The objective obligation means the protection in general and also on the level of the concrete, individual living conditions.

The right to human dignity means that no authority or other persons may enter or interfere beyond a certain limit. In other words the right to self determination is independent from any other will. This is why the right to self-determination is under constitutional protection.

The obligation of the state also means that the state-run institutional system might be neglected only in case of an adequate, approvable constitutional reason. On the other side, the **right to self-determination must be highly respected in accordance with constitutional values of the 21st**



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century. The proportional and reasonable limitation of a constitutional right in a democratic state means that the legal regulation must be followed both by the state and by the citizens. The only guarantee to solve the conflict between the objective obligation of the state and the private interests of the citizens is **correct legislation based on professional considerations.**

The **right to life and the right to health are unlimitable** fundamental rights. The **safety of a homebirth and its legal and institutional framework should be examined in this context.** There is no **known national or international prohibition** or limitation of a planned homebirth but the **will of the mother to do so is a fundamental-right issue in connection with the state's institutional obligation.** In other words: the **state is responsible to create the effective and appropriate legal and institutional conditions, including professional minimum-standards to avoid illegal practices and prevent health risks** of the mother or the child.

3. DOMESTIC VIOLENCE: The CFR's colleagues are **participating in the activities of the working group on drawing up adequate criminal rules and regulations combating domestic violation.** The working group was **set up by the Hungarian Ministry of Public Administration and Justice** in September 2012. In this context, the CFR called the attention of the ministry's deputy-state secretary responsible for the working group to the following:

- In April 2011 the Committee of Ministers of the Council of Europe adopted the **Convention on preventing and combating violence against women and domestic violence**, being the most comprehensive international convention which aims at zero tolerance for such violence. The convention will enter into force on the date of 10 signatories have ratified it. **Hungary has not ratified it yet.**
- In October 2007 the Committee of Ministers of the Council of Europe adopted the **Convention on the protection of children against sexual exploitation and sexual abuse.** **Hungary** signed but **has not ratified** the convention.

Note: The information provided above can be posted on the CEDAW website for public information.

Yours sincerely,

(Prof. Máté Szabó)
Commissioner for Fundamental Rights
Hungary