

Comments of the Hungarian delegation on draft Article 3(5) of the UNCITRAL Mediation Rules [2020]

Hungary hereby provides its comments on draft Article 3(5) of the UNCITRAL Mediation Rules [2020].

Hungary is of the opinion that the following part of the wording should not be included:
[gender and]

The term „*gender*” does not have legally binding definition adopted at international level. At present political debates are ongoing related to the potential definition of „*gender*”. This debate has not yet been and is far from being settled.

We would like to note that the „United Nations Guidelines for gender-inclusive language” itself differentiates between „gender as a social construct” (which refers to the roles, behaviors, activities and attributes that a given society at a certain time considers appropriate for men and women) and „sex” as a biological characteristic of living beings.

For us it is highly unclear how this definition in the context of the given text would be interpreted in practice, how an undefined, debated notion would be specified and applied. It is not clear what is the reason for including „gender diversity” in mediation rules, and what exactly the selecting authority actually should do when it „respects gender diversity” in the selection process.

Hungary recognizes and promotes equality between men and women in accordance with the Fundamental Law of Hungary, and the primary law, principles and values of the European Union, as well as commitments and principles stemming from the international law. In line with these and its national legislation, Hungary interprets the concept of “gender” as reference to “sex” and the concept of “gender equality” as reference to the “equality between men and women”.

In the light of the foregoing, we have deep concern of using the term “gender diversity” as this term can be interpreted as having different meaning to the Hungarian understanding.

Hungary proposes the Working Group to consider not to include the word “gender” in Article 3(5), and in particular, not to include it in the context of the term “diversity” for the reasons described above.