

# Franet National contribution to the Fundamental Rights Report 2020

**Hungary**

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| Franet country study: policy and legal highlights 2019   |   |
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| Issues in the fundamental rights institutional landscape | <b>Law on churches:</b> The <a href="#">amendment</a> to the law on churches maintains the role of the Parliament to grant the highest level of recognition for religious organisations.  |
| EU Charter of Fundamental Rights                         | <b>Implementation of the Charter:</b> Reference to the EU Charter can most often be found in judicial decisions (e.g. in the case of Bf.589/2018/26). It is usually accompanied by other sources of international and EU law and with references to the relevant jurisprudence of the European Court of Justice.  |
| Equality and non-discrimination                          | <b>The registration of churches:</b> The <a href="#">amendment</a> to the law on churches maintains the distinction between religious organisations.<br><br><b>Discrimination of homeless people:</b> A <a href="#">Constitutional Court decision</a> found the ban on ‘staying habitually on public premises’ in conformity with the Fundamental Law.  |
| Racism, xenophobia & Roma integration                    | <b>The Gyöngyöspata Roma school segregation case:</b> in <a href="#">second instance</a> , compensation was adjudicated to the students who had to suffer segregated education in the village.<br><br>The Committee on the Elimination of Racial Discrimination in its <a href="#">Concluding observations</a> mentioned among others the weakness of the ombudsperson institution, persistence of hate crimes and hate speech.<br><br><b>Hate crimes:</b> A <a href="#">Protocol</a> was adopted by the Police to strengthen the recognition of bias motives in criminal procedure.  |
| Asylum & migration                                       | <b>State of crisis of mass migration:</b> The <a href="#">UN Special Rapporteur</a> called upon the Hungarian Government to end the declaration of mass migration crisis and to cancel related restrictive measures, and underlined the problem of the lack of substantive judicial review on the lawfulness of detention and asylum decision.<br><br><a href="#">Starvation cases:</a> Hungary is depriving food from people in the transit zones. In these cases the Hungarian Helsinki Committee successfully requested interim measures from the ECtHR.   |
| Data protection and digital society                      | <b>The European Union’s data protection reform:</b> The Hungarian Parliament adopted <a href="#">Act XXXIV of 2019</a> on the necessary amendments to implement the European Union’s data protection reform. The National Authority for Data Protection and Information Freedom launched an <a href="#">online system</a> to make the notification duty easier to data processors when it comes to data breach incidents.<br><br><b>Using children in political campaign:</b> <a href="#">Civil society organisations</a> and the <a href="#">Commissioner for Fundamental Rights</a> criticised that several candidates and politicians of FIDESZ used children in the European Parliamentary election campaign. |

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| Rights of the child                                 | <p><b>Students with a disability and special needs students:</b> A number of cases before the <a href="#">Equal Treatment Authority</a> and the <a href="#">Ombudsperson</a> show deficiencies in how schools accommodate students with disabilities or students with special needs.</p> <p><b>Procedural safeguards for children who are suspects in criminal proceedings:</b> <a href="#">Act LXVII of 2019</a> calls for the obligation of the authorities involved in the execution of criminal sanctions to inform the young offenders in writing, in a simple and clear language, of his/her rights. Children offenders under the age of 16 have to be separated from older children offenders.</p> |
| Access to justice, including victims of crime       | <p><b>Violence against women:</b> The Istanbul Convention has not been ratified yet.</p> <p><b>The implementation of the Victims' Rights Directive:</b> According to the <a href="#">VICATIS</a>-report, the relevant guarantees and measures that aim to support and protect victims of sexual/domestic violence, have still not been duly implemented.</p>  |
| Convention on the Rights of Persons with Disability | <p><b>Deinstitutionalisation:</b> There are a series of cases before various bodies (e.g. the <a href="#">ombudsperson</a>) concerning placement and treatment of people with disabilities in large-number residential facilities.</p> <p>In 2019, a new deinstitutionalisation concept was adopted by the appendix to the <a href="#">1295/2019 Government decree</a> regarding the long-term concept of the replacement of institutions providing care for people with disabilities.</p>  |

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

In terms of legislative developments, one could be mentioned which concerns discrimination on the ground of religion or belief. After scrutiny from various bodies (with violations found by the Constitutional Court, the European Court of Human Rights, the Venice Commission), the registration of churches in Hungary sees another amendment with a **new law on churches** that entered into force on 15 April 2019<sup>1</sup>. The new law maintains the distinction between various groups of religious organisations and the role of the Parliament in granting the highest level of recognition. The law creates four levels of recognition (from religious organisations to recognised churches) with varying benefits concerning state support which critics say maintains the discriminatory approach of the earlier legislation and does not solve issues found to be in violation of equality and religious freedom and will lead to new rounds of legal contestation.<sup>2</sup> Crucially, the law maintains the power of the parliamentary majority to block access to the highest level of recognition and does not seek to remedy the situation of those churches that could not register under the previous legislative framework. In a procedure before the Constitutional Court, the Government's denial of recognising a church under the previous legislation was upheld as constitutional.<sup>3</sup> The decision referred to the amendment of the Fundamental Law empowering the Parliament and the ability to register under the new law. (See Annex 2 for more details on the decision.)

Another legislative development concerned discrimination on the ground of sexual orientation. An amendment to key immigration legislation was adopted that, among others, removed specific reference to **registered civil unions**, raising doubts whether these couples are still considered family members.<sup>4</sup> The Ministry of Interior (*Belügyminisztérium*), upon written question from Háttér Society (*Háttér Társaság*), an LGBTQI- NGO, confirmed that even though specific reference is now missing,

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<sup>1</sup> Act CXXXII of 2018 on the freedom of conscience and religious freedom and on the amendment of Act CCVI of 2011 on the legal status of churches, religious denominations and religious communities (*2018. évi CXXXII. törvény a lelkiismereti és vallásszabadság jogáról, valamint az egyházak, vallásfelekezetek és vallási közösségek jogállásáról szóló 2011. évi CCVI. törvény módosításáról*), available at: [http://nit.hu/cgi\\_bin/njt\\_doc.cgi?docid=211893.363617](http://nit.hu/cgi_bin/njt_doc.cgi?docid=211893.363617). Conception and explanation of the Government (*Az egyházügyi törvény módosításának koncepciója*): [https://www.kormany.hu/download/8/07/70000/Egyh%C3%A1z%C3%BCgyi%20t%C3%B6rv%C3%A9ny%20m%C3%B3dos%C3%ADt%C3%A1s\\_koncepci%C3%B3j\\_normasz%C3%B6veggel\\_0918.pdf](https://www.kormany.hu/download/8/07/70000/Egyh%C3%A1z%C3%BCgyi%20t%C3%B6rv%C3%A9ny%20m%C3%B3dos%C3%ADt%C3%A1s_koncepci%C3%B3j_normasz%C3%B6veggel_0918.pdf). All hyperlinks in the Chapter were accessed on 15 September 2019.

<sup>2</sup> Evaluation of the Hungarian Civil Liberties Union (*A Társaság a Szabadságjogokért (TASZ) álláspontja a lelkiismereti és vallásszabadság jogáról, valamint az egyházak, vallásfelekezetek és vallási közösségek jogállásáról szóló 2011. évi CCVI. törvény módosításáról szóló 2018. évi CXXXII. törvényről*), available at: [https://civicrm.tasz.hu/files/tasz/civicrm/persist/contribute/files/Egyha\\_zto\\_rve\\_ny\\_mo\\_dosi\\_ta\\_s%20elemze\\_s\\_ve\\_gleges\\_20190401.pdf](https://civicrm.tasz.hu/files/tasz/civicrm/persist/contribute/files/Egyha_zto_rve_ny_mo_dosi_ta_s%20elemze_s_ve_gleges_20190401.pdf).

<sup>3</sup> Decision 3047/2019. (III. 14.) of the Constitutional Court, available at:

<http://public.mkab.hu/dev/dontesek.nsf/0/D464A6BA7438C1A1C1257FA10058652A?OpenDocument>.

<sup>4</sup> Act II of 2007 on the admission and the right of residence of third-country nationals (*2007. évi II. Törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Article 2(da), as amended by Act CXXXIII of 2018, available at: [http://nit.hu/cgi\\_bin/njt\\_doc.cgi?docid=108621.361410](http://nit.hu/cgi_bin/njt_doc.cgi?docid=108621.361410).

under the general rule of the Registered Civil Unions Act,<sup>5</sup> wherever ‘marriage’ is mentioned, civil unions are also included.<sup>6</sup>

The research carried out did not reveal any other relevant legislative/policy developments. It is noted though that several court and administrative decisions have been issued during the reporting period which are of relevance as they point to relevant developments in the field. Selected decisions, which are considered as the most relevant ones, are described below.

Regarding discrimination on the ground of disability, the following cases are of relevance:

- Whilst the first case concerns homeless people, it is considered to be relevant as evidence shows that people with a mental disability are overrepresented among homeless people.<sup>7</sup> In a high-profile case concerning **homelessness**, the Constitutional Court found the ban on ‘staying habitually on public premises’ in conformity with the Fundamental Law. The relevant clause of the Fundamental Law was inserted in 2018 with the Seventh Amendment,<sup>8</sup> banning the use of public premises for habitation, followed by the amendment of the Law on Misdemeanours<sup>9</sup> imposing sanctions, including confinement for up to 60 days, against those who commit the unlawful behaviour. Several judges with pending cases challenged the provisions of the Law on Misdemeanours. The Constitutional Court argued that the use of public premises for habitation ‘upsets the balance between the individual’s constitutional right and the community’s interest’ and violates the duty to cooperate with the state. The Court rejected arguments that the introduced provisions lack clarity and that they discriminate against homeless people. The Court argued that the protection of life and dignity of the persons concerned supports, and does not undermine, the logic of the provisions.<sup>10</sup>
- A series of cases before various bodies concern the placement and treatment of people with disabilities in large-number **residential facilities**. The Ombudsperson detailed the issues raised by the operation of such institutions in a number of reports, and underlined the importance of a commitment to move away from the model of large institutions into alternative forms of accommodation and care.<sup>11</sup> A Hungarian NGO, the Hungarian Civil Liberties Union (*Társaság*

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<sup>5</sup> Act XXIX of 2009 on the amendment of certain laws relating to registered partnerships, related matters and facilitating the certification of civil relations (2009. évi XXIX. Törvény a bejegyzett élettársi kapcsolatáról, az ezzel összefüggő, valamint az élettársi viszony igazolásának megkönnyítéséhez szükséges egyes törvények módosításáról), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=124380.242640](http://njt.hu/cgi_bin/njt_doc.cgi?docid=124380.242640).

<sup>6</sup> Written question of Háttér Society: <http://hatter.hu/hirek/a-bejegyzett-elettarsakat-a-bevandorlas-soran-is-csaladtagnak-kell-tekinteni>. Written response of the Ministry of Interior: [http://hatter.hu/sites/default/files/dokumentum/egyuleti\\_hir/bmh-valasz-2019.pdf](http://hatter.hu/sites/default/files/dokumentum/egyuleti_hir/bmh-valasz-2019.pdf).

<sup>7</sup> ‘People with intellectual disability are vastly overrepresented in homeless populations, with prevalence estimates ranging from 12–39% across countries’. Durbin, A., Isaacs, B., Mauer-Vakil, D. et al. *Curr Dev Disord Rep* (2018) 5: 125. <https://doi.org/10.1007/s40474-018-0141-6>.

<sup>8</sup> The seventh amendment to the Fundamental Law (*Magyarország Alaptörvényének hetedik módosítása*), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=209038.356015](http://njt.hu/cgi_bin/njt_doc.cgi?docid=209038.356015).

<sup>9</sup> Act II of 2012 on misdemeanors, proceedings in misdemeanors and the registration system for misdemeanors (2012. évi II. törvény a szabálysértésekről, a szabálysértési eljárásról és a szabálysértési nyilvántartási rendszerről), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=143166.370320](http://njt.hu/cgi_bin/njt_doc.cgi?docid=143166.370320).

<sup>10</sup> Decision 19/2019 (VI. 18.) of the Constitutional Court, <http://public.mkab.hu/dev/dontesek.nsf/0/2BA8668E09472DB8C1258337004BC40A?OpenDocument>.

<sup>11</sup> Report AJB-297/2019 of 16 January 2019 of the Commissioner for Fundamental Rights (*Az alapvető jogok biztosának Jelentése az AJB-297/2019. számú ügyben*), available at: [http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+a+Kom%C3%A1rom-Esztergom+megyei+Fogvat%C3%A9kosok+Otthona+vizsg%C3%A1lat%C3%A1r%C3%B3l+297\\_2019/b71b1d46-6290-cdb4-](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+a+Kom%C3%A1rom-Esztergom+megyei+Fogvat%C3%A9kosok+Otthona+vizsg%C3%A1lat%C3%A1r%C3%B3l+297_2019/b71b1d46-6290-cdb4-)

a Szabadságjogokért) warned that the creation of new 25-person establishments to replace the current mass institutions using EU funds, seems to run against the previously stated commitments supporting independent living.<sup>12</sup> (See also the related NGO-led campaign covered in Annex 1.)

- The Constitutional Court annulled a judgment where the reassessment of the **disability** of the applicant resulted in a decrease of related allowances. The Court found it unconstitutional that the decision, confirming an improvement in the applicant's condition, was based on mere legal assessment and not on an individual assessment by a medical expert.<sup>13</sup>
- Based on the application filed by one quarter of Members of the Parliament, the Constitutional Court assessed the constitutionality of the amendment which eliminated the possibility to exempt certain **students with a disability** from evaluation and grading. Children qualifying as children with special pedagogical needs continue to have this option but not children with disorders related to social integration, learning or behaviour. While the Court refused to annul the relevant clause as requested in the application, it found an unconstitutional regulatory gap and called on the legislator to create preferential rules for students with social integration, learning or behavioural disorders.<sup>14</sup> A number of cases before the Equal Treatment Authority and the Ombudsperson also show deficiencies in how schools accommodate students with disabilities who have special needs.<sup>15</sup>

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[df59-07cbfd44536d?version=1.0](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+szoci%C3%A1lis+int%C3%A9zm%C3%A9ny+elleni+beadv%C3%A1ny+vizsg%C3%A1lat%C3%A1r%C3%B3l+458_2019/ea66bc3e-00ea-6b73-1b53-61bdf075dcd2?version=1.0). Case involving physical abuse: Report AJB-458/2019 of 2 April 2019 of the Commissioner for Fundamental Rights (*Az alapvető jogok biztosának Jelentése az AJB-297/2019. számú ügyben*), available at:

[http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+szoci%C3%A1lis+int%C3%A9zm%C3%A9ny+elleni+beadv%C3%A1ny+vizsg%C3%A1lat%C3%A1r%C3%B3l+458\\_2019/ea66bc3e-00ea-6b73-1b53-61bdf075dcd2?version=1.0](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+szoci%C3%A1lis+int%C3%A9zm%C3%A9ny+elleni+beadv%C3%A1ny+vizsg%C3%A1lat%C3%A1r%C3%B3l+458_2019/ea66bc3e-00ea-6b73-1b53-61bdf075dcd2?version=1.0). (physical violence in large institution).

Reaction from the Ministry of Human Resources: <https://www.kormany.hu/hu/emberi-eroforrasok-miniszteriuma/szocialis-ugyekert-es-tarsadalmi-felzarkozasert-felelos-allamtitkarsag/hirek/sulyos-bantalmazas-tortenhetett-a-mozsgoi-otthonban>.

Summary of the Hungarian Civil Liberties Union: <https://tasz.hu/cikkek/bantalmazas-megalazas-egy-baranya-megve-intezmenyben>.

<sup>12</sup> <https://tasz.hu/cikkek/aggasztoelojelekakitagolasjovojoerol>

<sup>13</sup> Decision 3024/2019. (II. 4.) of the Constitutional Court,

<http://public.mkab.hu/dev/dontesek.nsf/0/AC94FCB189904389C125804F0058949C?OpenDocument>.

<sup>14</sup> Decision 9/2019. (III. 22.) of the Constitutional Court, <http://public.mkab.hu/dev/dontesek.nsf/0/FC0EFE543BB3DB84C125814D0058EB65?OpenDocument> (with English summary at the end).

<sup>15</sup> Decision EBH/HJF/122/13/2019 of the Equal Treatment Authority,

[https://www.egyenlobanasmod.hu/sites/default/files/nyilvanos\\_hatarozat/122.2019\\_20190816.pdf](https://www.egyenlobanasmod.hu/sites/default/files/nyilvanos_hatarozat/122.2019_20190816.pdf) (refusal of student based on disability); Decision EBH/201/2019 of the Equal Treatment Authority,

<https://www.egyenlobanasmod.hu/hu/print/pdf/node/1477> (inadequate learning assistance and discrimination based on disability); Report AJB-43/2019 of 20 March 2019 of the Commissioner for Fundamental Rights,

[http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+SNI+gyermek+oktat%C3%A1sa+%C3%BCgy%C3%A9ben+43\\_2019/f17b697e-b197-a481-2746-9e39736a387d?version=1.0](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+SNI+gyermek+oktat%C3%A1sa+%C3%BCgy%C3%A9ben+43_2019/f17b697e-b197-a481-2746-9e39736a387d?version=1.0) (student with special needs not assigned to appropriate school); Report AJB-239/2019 of 18 January 2019 of the Commissioner for Fundamental Rights,

[http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+SNI+gyermek+oktat%C3%A1si+neh%C3%A9zs%C3%A9gei+kapcs%C3%A1n+239\\_2019/c7348ddc-5836-cbe8-76b0-5b20de7fea12?version=1.0](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+egy+SNI+gyermek+oktat%C3%A1si+neh%C3%A9zs%C3%A9gei+kapcs%C3%A1n+239_2019/c7348ddc-5836-cbe8-76b0-5b20de7fea12?version=1.0) (student with special needs not receiving adequate support).

Regarding discrimination on the grounds of sexual orientation and gender identity, the following cases are of relevance:

- The Ombudsperson examined a case where state authorities asked a gay couple to obtain documents which would have revealed the sexual orientation of the couple before authorities in a country that persecutes homosexual people. The Ombudsperson concluded that this practice violated the rights of the same-sex couple as they had to choose between the failure to comply with the conditions set by Hungarian authorities and the resulting failure to register according to their request, and the risk of persecution by revealing their sexual orientation before authorities of a country of origin that stigmatises and prosecutes gays.<sup>16</sup>
- The Equal Treatment Authority concluded that the practice of the Budapest mayor's office to block access to **LGBTQI** content for its employees amounted to discrimination, and thus imposed a fine of one million HUF (approx. 3000 EUR) and ordered the office to cease this practice. The office moved to challenge the decision before court.<sup>17</sup>
- The Equal Treatment Authority dealt with a number of cases related to **transsexuality**. The Authority found direct discrimination based on gender identity in the case of a countryside entrepreneur who, claiming negative reactions from the local community, declined to rent out folk attire for the taking of photos to a trans woman. The Authority stated that it has no legal relevance for finding discrimination whether or not the discriminator refers to the negative attitudes of others. In addition to the declaration of illegal discrimination, the decision bans the entrepreneur from further violations.<sup>18</sup>
- The Equal Treatment Authority approved the settlement in the case of a **transsexual** woman who was denied access to a women's changing room upon her return to the workplace after the male-to-female reassignment surgery. The employer apologised and committed to provide access, in the future, for all employees to adequate changing rooms.<sup>19</sup>
- The Equal Treatment Authority approved a settlement in a case where a **transsexual** applicant was refused employment despite good references. The employer agreed to evaluate a test project requested from the applicant, to help to improve the applicant's CV, and to hand over a contact list with further employment opportunities.<sup>20</sup>

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<sup>16</sup> Report AJB-270/2019 of 26 March 2019 of the Commissioner for Fundamental Rights, [http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+az+elt%C3%A9r%C5%91+%C3%A1llampolg%C3%A1rs%C3%A1g%C3%BA+szem%C3%A9lyek+bejegyzett+%C3%A9lett%C3%A1rsi+kapcsolat+!%C3%A9tes%C3%ADt%C3%A9s%C3%A9r%C5%91+270\\_2019/df26a6f9-78cc-b693-c2df-f75fe47429b0?version=1.0](http://www.ajbh.hu/documents/10180/2932608/Jelent%C3%A9s+az+elt%C3%A9r%C5%91+%C3%A1llampolg%C3%A1rs%C3%A1g%C3%BA+szem%C3%A9lyek+bejegyzett+%C3%A9lett%C3%A1rsi+kapcsolat+!%C3%A9tes%C3%ADt%C3%A9s%C3%A9r%C5%91+270_2019/df26a6f9-78cc-b693-c2df-f75fe47429b0?version=1.0). Summary of Háttér Society:

<http://hatter.hu/hirek/egy-meleg-par-eletet-veszelyeztette-volna-a-kormanyhivatal-az-ombudsman-kozbelepett>.  
<sup>17</sup> Decision of 29 May 2019 of the Equal Treatment Authority, <http://hatter.hu/hirek/a-szorakoztato-videokat-nem-az-lmbtqi-szervezetek-oldalait-blokkolta-a-fopolgarmesteri-hivatal>. Summary in English: <https://www.equalitylaw.eu/downloads/4932-hungary-budapest-mayor-s-office-fined-for-blocking-access-to-lgbtqi-websites-pdf-71-kb>.

<sup>18</sup> Háttér Society (2019), 'Transgender people also have the right to wear traditional folk clothes' 11 July 2019, available at: <http://hatter.hu/hirek/ebh-a-transznemueknek-is-joguk-van-nepviseletbe-oltozni>.

<sup>19</sup> Decision of 21 March 2019 of the Equal Treatment Authority, <http://hatter.hu/hirek/ebh-ugy-biztositani-kell-a-transznemueknek-az-oltozohasznalatot>. Summary in English: <https://www.equalitylaw.eu/downloads/4925-hungary-choosing-changing-room-in-line-with-gender-identity-pdf-81-kb>.

<sup>20</sup> Decision EBH/152/2019 of the Equal Treatment Authority, <https://www.egyenlobanasmod.hu/hu/print/pdf/node/1456>.

- A government agency found that the Coca Cola campaign #loveislove, showing gay couples, violated consumers' rights, more specifically the clause banning advertisements that can 'harm the physical, emotional or moral development of children and adolescents.'<sup>21</sup> The decision was followed by criticism from government politicians.
- A first-instance court found guilty the perpetrators who threatened two men kissing in public in 2013. The court found that it was clear that there was a homophobic motivation and further that the very act of verbal threats was enough to substantiate the crime of 'violence against member of a community'. The perpetrators were sentenced to two years of probation (conditional sentence).<sup>22</sup>

## 2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

Studies of relevance in the context of discrimination on the ground of disability:

- In a study on human rights and the **disability** movement, the author argues that it is a mistake to conflate disability activism and human rights' activism as the latter does only occasionally feature in the argumentation and everyday work of disability activists from England and Hungary.<sup>23</sup>
- Researchers of ELTE Faculty of Special Needs Education (*ELTE Gyógypedagógiai Kar*) find in a study based on participative research that despite hardships which are usually transitory, supported living is the preferred way of the persons involved, providing more freedom, but that this should be accompanied with gradual transition to the equal partnership model.<sup>24</sup>

Studies of relevance in the context of discrimination on the grounds of sexual orientation and gender identify:

- Háttér Society criticises the message of a state media programme that homosexuality could be cured, and seek to counter this view by reference to expert opinions. They argue that

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<sup>21</sup> DM, Fogyasztóvédelem: A meleg párokkal reklámozó Coca-Cola károsította a fiatalok erkölcsi fejlődését [Consumer protection: Coca Cola with its advertisement featuring gay couples harmed the moral development of adolescents], *Index*, 14 October 2019,

[https://index.hu/gazdasag/2019/10/14/love\\_is\\_love\\_plakat\\_fogyasztovedelem\\_meleg\\_par\\_reklam\\_coca-cola\\_karosította\\_a\\_fiatalkorúak\\_erkölcsi\\_fejlodeset/](https://index.hu/gazdasag/2019/10/14/love_is_love_plakat_fogyasztovedelem_meleg_par_reklam_coca-cola_karosította_a_fiatalkorúak_erkölcsi_fejlodeset/).

<sup>22</sup> Háttér, Megszületett az ítélet a baseballütős homofób támadás ügyében [Judgment rendered in the case of the homophobic attack with baseball bat], 16 November 2019, <http://hatter.hu/hirek/megszuletett-az-itelet-a-baseballutos-homofob-tamadas-ugyeben>.

<sup>23</sup> Petri, G., Az emberi jogok és a fogyatékos emberek társadalmi mozgalma [Human rights and the social movement of persons with disability], *Fogyatékoság és társadalom [Disability and Society]*, 2019/1, 29–56, [http://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/09/02\\_FT\\_2019\\_1\\_Tanulmányok\\_Petri.pdf](http://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/09/02_FT_2019_1_Tanulmányok_Petri.pdf).

<sup>24</sup> Sándor, A., Horváthné Somogyi, I., Iván, Z., Kalányos, Gy. (2019), A támogatott lakhatás jellemzői egy participatív kutatás tükrében [The characteristics of supported living in light of a participative research], *Fogyatékoság és társadalom [Disability and Society]*, No. 1, 90–114, [http://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/09/05\\_FT\\_2019\\_1\\_Tanulmányok\\_Sandor\\_et\\_al.pdf](http://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/09/05_FT_2019_1_Tanulmányok_Sandor_et_al.pdf).

experts claiming to be able to cure homosexuality should face ethical disciplinary proceedings.<sup>25</sup>

- Háttér Society and Medián polled the Hungarian society on intersexual babies. The findings that are based on a representative sample of 1,200 respondents show that 37.4 per cent of the respondents support children’s right to self-determination (medically necessary operation at an early age and later decision on the rest as an adult), 27.4 per cent would trust the doctors with the decision, 16.7 per cent support early operation (allowing to be raised either as a boy or as a girl), while 12.7 per cent support the decision of the parents.<sup>26</sup>
- A study published by Háttér Society finds a high rate of harassment against LGBTQI students at their school.<sup>27</sup> The study was based on responses from 919 LGBTQI students (age group 13–21) to an online survey about their experiences in the academic year 2016–17. The questions related to “hearing biased remarks, feeling safe, being harassed, and feeling comfortable at school” as well as the students’ “academic experiences, attitudes about school, and the availability of supportive school resources helping the formation of an inclusive school environment that ensures equal access to education for all students”. The report details the high level of experiences of harassment and assault based on gender identity and sexual orientation, and the low level of reporting, most often out of fear from being ‘outed.’ The most common reaction from school staff is the advice to ignore the incident. The study finds correlation between victimisation and academic achievement. Victims in schools which are equipped with relevant policy measures were more likely to report incidents and to get (effective) intervention. The study makes over 30 recommendations to create a safer school environment, including training, curricula reform, targeted support and information campaigns.

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<sup>25</sup> Háttér Society (2019), ‘This is the answer! Reaction of Hatter Society to statements made in public media’ <http://hatter.hu/hirek/ez-itt-a-valasz-a-hatter-tarsasag-reagalasa-a-kozteveben-elhangzottakra>.

<sup>26</sup> The research received funding from the EU’s Rights, Equality and Citizenship Programme (2014–2020). Határozott álláspontja van a magyaroknak az interszex csecsemőkről [Hungarians have strong opinion on intersex babies] Háttér, 25 October 2019, <http://hatter.hu/hirek/hatarozott-allaspontja-van-a-magyaroknak-az-interszex-csecsemokrol>.

<sup>27</sup> Háttér Society (2019), *Supportive friends, unprepared institutions – The experience of LGBTIQ students in Hungarian schools based on the National School climate survey*, available at: <http://hatter.hu/sites/default/files/dokumentum/kiadvany/school-environment-report-en.pdf>.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

#### Legal developments:

In the official database for Hungarian legislation (including all binding legal norms, from constitutional to lower levels), a search of the law implementing the Racial Equality Directive, Act CXXV of 2003 on Equal Treatment results in only one relevant hit: a July 2019 **Government Ordinance**<sup>28</sup> has set up the so-called Directorate-Generate for Creating Social Opportunities (*Társadalmi Esélyteremtési Főigazgatóság*) belonging under the minister responsible for social catching up (*társadalmi felzárkózásért felelős minister*). This portfolio was moved in April 2019 from the Minister for human resources responsible for social issues to the Minister of interior, responsible for public order.<sup>29</sup>

The new DG holds competences that had previously belonged to the DG for Social Affairs and Child Protection (*Szociális és Gyermekvédelmi Főigazgatóság*), and “collaborates to fulfil tasks related to the Roma national minority.” These competences include the operation of the national equal opportunities’ mentoring network, the provision of support to local governments in developing local equal opportunities’ programmes, the supervision and implementation of these local programmes, the operation of the information system for local equal opportunities’ programmes, the operation of a registry for these programmes, etc.

#### Policy developments:

A new **Government Decision**<sup>30</sup> was adopted in 2019 providing the legal basis for the long-term programme on the “**catching up**” of settlements.<sup>31</sup> The programme aims to help settlements to catch

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<sup>28</sup> Government Decree 180/2019. (VII. 26.) on the Directorate-Generate for Creating Social Opportunities and the amendments to certain government decrees in relation to the transfer of certain competences of the Directorate General for Social Affairs and Child Protection (*180/2019. (VII. 26.) Korm. rendelet a Társadalmi Esélyteremtési Főigazgatóságról, valamint egyes kormányrendeleteknek a Szociális és Gyermekvédelmi Főigazgatóság egyes feladatainak átadásával kapcsolatos módosításáról*), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=215337.371233](http://njt.hu/cgi_bin/njt_doc.cgi?docid=215337.371233).

<sup>29</sup> 84/2019. (IV. 18.) Korm. rendelete a Kormány tagjainak feladat- és hatásköréről szóló 94/2018. (V. 22.) Korm. rendelet módosításáról. Minister for Human Resources is officially, but incorrectly translated as Minister of Human Capacities.

<sup>30</sup> Government Decision 1404/2019. (VII. 5.) on the establishment of a long-term programme for catching-up communities (*1404/2019. (VII. 5.) számú kormányhatározat "Felzárkózó települések" hosszú távú programjának megalapozásáról*), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=214944.370095](http://njt.hu/cgi_bin/njt_doc.cgi?docid=214944.370095).

<sup>31</sup> Catching up (*felzárkózó*) is a particular adjective in Hungarian used for those situations where one party, usually a minority, takes actions to reach the ‘level’ (e.g. socio-political status) of the majority. The overtone is somewhat paternalistic: the majority is benevolently helping the minority out in this endeavour. This use of the notion – which was also used during the Socialist era – also appears in the equality clause of the Fundamental Law, although officially it is translated as “social

up to the national average, but the details are to be developed in the process. The programme starts in selected pilot villages, and is run by the Maltese Charity of Hungary (official name: Health and Social service of the Hungarian Association of the Order of Malta (*Magyar Máltai Szeretetszolgálat*)). The decision was taken in July, and crime prevention trainings were held in September.<sup>32</sup>

### **Other measures:**

The following court, administrative and political decisions also outline some important developments.

- Education

The Gyöngyöspata **school segregation case** also had a further step: the compensation was confirmed in second instance to the pupils who had to endure segregated education between 2004 and 2017 in the village. Altogether, 99 million HUF (approximately 310,000 euros) was awarded in compensation. The decision of the Regional Court of Appeal of Debrecen (*Debreceni Ítéltábla*) is final, but supervision for legality can be initiated at the Curia. If this remains the final decision, it could have implications for the other segregated schools, of which there are estimated to be several hundred in the country.<sup>33</sup>

In relation to education policy, the appointment of a literary historian as a member of the committee reworking the national school framework curriculum in literature, needs to be mentioned. The person concerned had promoted anti-Semitic authors, called Péter Esterházy a ‘destructor of culture who should not be taught’, questioned that Imre Kertész was Hungarian, and referred to György Spiró as a person who is ‘barely human’, all of them prominent Hungarian writers.<sup>34</sup> An opposition MP asked the Minister for Human Resources whether he was indeed working on the curriculum and whether he received remuneration. The state secretary at the Ministry for Human Resources responded that the person concerned was a member in the working committees (sic) on the framework curriculum consisting of nearly 50 experts, operating under a ministerial commissioner, working in the committee

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inclusion.” This is somewhat problematic since it was introduced by the Fourth Amendment to the Fundamental Law with the reasoning that it will allow for “benevolent segregation”, i.e. the opposition of social inclusion. Cf. also <https://hclu.hu/en/articles/hungarian-government-creates-the-legal-framework-for-segregating-roma-children-in-schools-1>. At the end, the Equal Treatment Act’s preamble was modified to include social catching up (or “closing the social gap” as the HCLU translates it) by act CXXI of 2013 on amendments related to the Fourth Amendment to the Fundamental Law.

<sup>32</sup> National Police (2019) ‘Crime prevention presentations held for local citizens’, Press release, 10 September 2019, available at: <http://www.police.hu/hu/hirek-es-informaciok/bunmegelozes/aktualis/helyi-lakosoknak-tartottak-bunmegelozesi-eloadast>.

<sup>33</sup> The text of the decision is not available yet. News broke on 18 September 2019. See e.g. HVG (2019) ‘Roma students f Gyongyospata are entitled to receive compensation for damages for school segregation’, *HVG*, 18 September 2019, available at: [https://hvg.hu/itthon/20190918\\_Jogeros\\_jar\\_a\\_karterites\\_a\\_gyongyospatai\\_roma\\_diakoknak\\_a\\_szegregacio\\_miatt](https://hvg.hu/itthon/20190918_Jogeros_jar_a_karterites_a_gyongyospatai_roma_diakoknak_a_szegregacio_miatt).

<sup>34</sup> For videos discussing the mentioned issues, see <https://444.hu/2014/08/19/kertesz-imre-mellett-tormayert-es-wass-albertert-rajongo-kertesz-ellen-kikelo-irodalomtorteneszt-is-kituntette-a-kormany>. See importantly the embedded videos.

for Hungarian language and literature. He received a monthly remuneration of HUF 480,000 (approximately EUR 1,455) between 17 June 2019 and 31 December 2019.<sup>35</sup>

- Social inclusion:

In May 2019, the Regional Court of Appeal of Debrecen (*Debreceni ítélőtábla*) confirmed a December 2018 first instance decision in which the Miskolc Tribunal (*Miskolci Törvényszék*) found a city ordinance and accompanying razzias and eviction of Roma persons discriminatory for targeting segregated areas, and concluded that such an act constituted direct discrimination and harassment based on nationality.<sup>36</sup> The initiator, the Hungarian Civil Liberties Union, considers it the “biggest ever **anti-discrimination**” litigation.<sup>37</sup>

- Supply of goods and services

With regard to **access to and supply of goods and services**, the Equal Treatment Authority (*Egyenlő Bánásmód Hatóság*) decided on three cases in 2019 falling under the Race Equality Directive’s scope.

In a January 2019 case, a Roma person was denied access to a bar. An amicable settlement prescribed awareness training for the security personnel of the bar at the owner’s cost.<sup>38</sup>

In an April 2019 case, a Roma person with a disability was found to be a victim of direct discrimination when a firm offered to look for the most suitable loan in exchange for payment. The firm took the money, but never followed up on the offer.<sup>39</sup>

In a July 2019 case, a person was asked to show their bag for inspection by security personnel in a clothing shop. In a proceeding started by the Equal Treatment Authority, the parties reached a settlement accepting that the inspection was due to discrimination based on the “nationality” (ethnicity) of the customer. According to the settlement, the managers of the shop have to attend an information session of the Authority, and bring the customer information sheet in accordance with the law on security personnel services.<sup>40</sup>

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<sup>35</sup> Response to written questions K/6969 and K/6971, 9 August 2019, <https://www.parlament.hu/irom41/06969/06969-0001.pdf>.

<sup>36</sup> Pf.I.20.059/2019/4. Decision of the Regional Court of Appeal of Debrecen, 9 May 2019.

<sup>37</sup> See TASZ (2019) ‘We have won at the second instance the largest antidiscrimination case in the country against the local government of Miskolc’, Press release, 09 May 2019, available at: <https://tasz.hu/cikkek/masodfokon-is-megnyertuk-az-oroszag-legnagyobb-antidiszkriminacios-peret-miskolc-onkormanyzataval-szemben>.

<sup>38</sup> EBH/13/2019 (25 January 2019).

<sup>39</sup> EBH 137/2019 (15 April 2019).

<sup>40</sup> EBH 162/2019 (8 July 2019).

The Hungarian Civil Liberties Union (*Társaság a Szabadságjogokért*) tried to take a case before the Equal Treatment Authority back in April 2018 that concerned the government's "Stop" campaign billboards.<sup>41</sup> They alleged that the display of a flow of people of colour (i.e. skin colour darker than that of an average Hungarian) caused offence and potentially harassment of persons of colour or immigrants of Arab, Middle Eastern, South Asian or North African origin living in Hungary (protected characteristics: skin colour, nationality, ethnic origin). There is no trace of the process on the website of the Authority. The HCLU communicated to the author of this report that the Authority rejected the complaint for lack of competence, which HCLU took to the Curia where the case is currently pending.<sup>42</sup>

In parallel, the billboards were found to violate equal opportunities as guaranteed in the law on electoral procedure by the Curia, since they were in fact not part of government information but part of the electoral campaign of Fidesz ahead of the 2018 April parliamentary elections.<sup>43</sup> In any case, this decision has not dealt with the potentially xenophobic nature of the billboards.

## **2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia**

### **Legal developments:**

In terms of legislative developments, there is **nothing to report on**. The 2012 Criminal Code<sup>44</sup> implements the Framework Decision in its Article 216(1) and (4) (violence against a member of a community), Article 332 (incitement against a member of a community) and Article 333 (public denial of genocide or crimes against humanity committed by the communist or national socialist regimes).

For the purpose of this report, relevant cases were also checked. It seems, however, that no court decisions have been issued during the reporting period in relation to racism and xenophobia. Therefore, there was either no such activity in Hungary in the given period, or relevant cases have been investigated and subsequently prosecuted under different provisions, or not reported or investigated or prosecuted.

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<sup>41</sup> TASZ (2019) 'Letter to the Equal Treatment Authority', available at: [https://tasz.hu/files/tasz/imce/2015/ebh\\_kerelem\\_0.pdf](https://tasz.hu/files/tasz/imce/2015/ebh_kerelem_0.pdf).

<sup>42</sup> Email communication from HCLU, 23 September 2019.

<sup>43</sup> Kvk.III.37.421/2018/8. Cf also Emese Szilágyi, A Kúria döntése a Kormány „STOP” plakátkampányáról, *JeMa* 2018/3-4, 51-57.

<sup>44</sup> Act C of 2012 on the Criminal Code (2012. évi C. Törvény a Büntető Törvénykönyvről), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=152383.370224](http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.370224).

### **Policy developments:**

In 2019, the Police (*Országos Rendőrfőkapitányság*) adopted a protocol aiming to strengthen the recognition of hate motives in criminal procedures.<sup>45</sup> The need for such a protocol has been pointed out by human rights' organisations since the 2008-2009 serial murders against Roma.<sup>46</sup>

### **Other measures:**

Not directly about the Framework Decision, but the Government submitted – with considerable delay – its **report** to the Committee on the Elimination of Racial Discrimination in August 2018,<sup>47</sup> and the Committee issued its **Concluding observations** in this regard in 2019.<sup>48</sup> The Committee continues to be concerned with the lack of proper statistics about racial and ethnic minorities; the insufficient institutional context (weakness of the ombudsman system); persistence of hate crimes and hate speech, few prosecutions, and so on.

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<sup>45</sup> ORFK 30/2019. (VII. 18.) Magyar Közlöny, 2019. Július 19, page 3868, [www.kozlonyok.hu/kozlonyok/index.php?m=0&p=kozltart&ev=2019&szam=41&k=12](http://www.kozlonyok.hu/kozlonyok/index.php?m=0&p=kozltart&ev=2019&szam=41&k=12).

<sup>46</sup> <http://gyuloletellen.hu/aktualitasok/gyulolet-buncselekmény-nyomozati-protokollt-fogadott-el-rendorseg>

<sup>47</sup> CERD/C/HUN/18-25, Combined eighteenth to twenty-fifth reports submitted by Hungary under article 9 of the Convention, due in 2004.

<sup>48</sup> CERD/C/HUN/CO/18-25, Committee on the Elimination of Racial Discrimination, Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary.

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

The following measures foster the mitigation of segregation risks at system-level in Hungary:

**Anti-segregation working groups** have been established in school maintenance districts (*tankerület*)<sup>49</sup> to monitor the desegregation processes in 2019. The newly created working groups have the right to initiate desegregation measures. Actors competent in public local education management – such as churches, the state, and other school operating agencies like civic, social and child-welfare organisations - are represented in anti-segregation working groups aiming to alleviate segregation. Their work is assisted by training on the possible and recommended areas of cooperation.<sup>50</sup> The task force develops unique solutions to local segregation practices in the educational districts. The working group may propose changes to the educational district or a review of the local equality plan. In addition, it will carry out monitoring work - monitoring the progress of public education equal opportunity plans and desegregation action plans - and develop cooperation with other local actors involved in education. The task of the working group is to facilitate the development of an inclusive educational environment for students of different socio-economic backgrounds and those with special educational needs. Various types of stakeholders and organisations are participating in the work of the 60 anti-segregation working groups, organisations such as NGOs, foundations, local representatives of the social and child protection sector (family and child welfare centers), nurses' networks, vocational training centers, church maintainers, ethnic and national minority self-government, municipalities, universities, Pedagogical Education Centres.

Promoting the access to high-quality inclusive education is enforced by the **obligations of educational districts** (these obligations are: establishing, merging or closing schools; establishing and enforcing professional and customary conditions for the management of schools; appointing school leaders; employing the school staff; contributing to public education surveys; elaborating development plans; collecting statistical data etc.) and the preparation of a **public education equal opportunity plan**. The project, led by the Education Office and supported by the EU Office, provides methodological support for educational districts to identify the situation that underpins public education equal opportunity action plans and to develop and implement the action plans. Educational districts should assess the distribution of pupils at school level, as well as the development of various educational indicators, including the number of disadvantaged and multiple disadvantaged pupils and pupils with special educational needs, year repeats, school absenteeism, people at risk of dropping out, changes in competency measurement data. In case of unequal distribution of pupils or lack of performance in school, the maintainers and the school management have to intervene. The situation analysis at the

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<sup>49</sup> (Central) School district (*tankerület*): the centralized operation of public schools is operated in 60 school districts in 2019, coordinated by a state agency Klebelsberg Centre (*Klebelsberg Központ*).

<sup>50</sup> Hungary, Act. 134/2016. (VI.10) Government decree on organisations participating in the maintenance of public educational functions, and on Klebelsberg Institution Maintenance Centre (*Korm. rendelet az állami köznevelési köznevelési feladat ellátásában fenntartóként részt vevő szervekről, valamint a Klebelsberg Központról*). available at: <https://net.jogtar.hu/jogszabaly?docid=A1600134.KOR>.

educational district level and the public education equal opportunities action plan based on it will facilitate access to inclusive, quality education and contribute to the improvement of educational efficiency.

In the frame of coordinated policy interventions, the Human Resource Development Operational Programme (HRDOP) 3.1.5 project (“Support of schools at risk of student dropout”)<sup>51</sup> implemented by the Educational Authority of Hungary (*Oktatási Hivatal*) provides methodological support for various educational agencies. This project prepares baseline studies and the equal opportunity plans for local public education districts, anti-segregation working groups and for school managements. The supported tasks in 2019 mainly aimed to provide a comprehensive knowledge base for school operating agencies to strengthen their capacities in areas of more inclusive education. The knowledge base covers analytical aspects of local educational administrative data and the development of an early warning indicator system for the prevention of early school leaving (ESL). It is expected that the proper preparation of public education equal opportunity plans will contribute to an improvement in students' academic performance and the reduction of absenteeism, grade repetition and early school leaving.

As a consequence of the above-mentioned methodological developments and improved baseline studies for desegregation plans, greater attention was paid to the modification of **schooling districts**. The definition and modification of compulsory public education schooling areas have received more attention with the review of baseline studies during the processes of planning desegregation measures. Setting the borders of compulsory schooling areas is an important means of desegregation policy since every year borders should be reviewed by taking the ratio of disadvantaged students at school levels into account.<sup>52</sup> In the school year 2018/2019, references to the proportion of disadvantaged students or of students with multiple disadvantages were more frequent than in previous years: 16 central school districts out of 60 have initiated the modification of local schooling areas due to the increase of students with disadvantages.

Since January 2019, a series of training workshops has been launched for public educational districts by the Educational Authority of Hungary in the frame of the HRDOP 3.1.5 **flagship project**. The goal of this project is preventing school segregation by means of **workshops** focusing on the following:

- increasing awareness towards more inclusive education;
- ensuring the fulfilment of desegregation goals by making comprehensive local baseline studies;
- giving instructions on how to enhance professional self-development competencies;
- providing guidelines and recommended standards for organisational improvements.

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<sup>51</sup> Human Resource Development Operational Programme (HRDOP) 3.1.5: <https://www.oktatas.hu/koznevelés/projektek/efop315>.

<sup>52</sup> 20/2012. (VIII. 31.) EMMI rendelet a nevelési-oktatási intézmények működéséről és a köznevelési intézmények névhasználatáról: 20/2012. (VIII. 31.) Ministry of Human Capacities (EMMI) decree on the operation of pedagogical and educational institutions and naming of the public educational institutions.

Another primary goal at this phase of the project is to base specific practical actions on planned PDCA (Plan-Do-Check-Action) cycles as a fundamental approach to quality assurance in education.

During the training, participants receive support from professionals. They study the possibility of following interventions among other subject matters:

- introduction of innovative pedagogical tools and methods, including adaptation to personal needs and active involvement which targets the enhancement of students' motivation;
- setting up an early warning indicator system and introduction of measures to deal with causes of early school leaving (also known as "student attrition", "student dropout")
- training of educational professionals to put a focus on disadvantaged students (originating from segregation, vulnerable social status, low-educated parents etc.) and early school leaving;
- application of a segregation index;
- individual support to disadvantaged and Roma students (support those pupils and students who moved to an integrated milieu from a segregated one);
- quality assessment;
- coaching and employing mediators and mentors;
- extra-curricular and after school activities;
- inter-cultural practices to improve cross-cultural familiarity;
- improvement of the relationship between parents and teachers (active participation of parents at schools).

Moreover, the workshops provide guidance on how the education management can plan and implement the "redistribution" of segregated school pupils among the institutions of a settlement, and the organisation of future equal opportunity public education. Coaching in workshops emphasised two basic strategies in desegregation in order to provide professional support for inclusion:<sup>53</sup>

(1) the strategy of "Opening-up": making segregated schools attractive to and open for parents with better social status and for those in the majority society

(2) and "Closure Strategy": eliminating segregated institution, redirecting segregated students to more heterogeneous communities.

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53 Szűcs, Norbert: A hódmezővásárhelyi deszegregációs intézkedés: az oktatási rendszer esélyegyenlőség-fókuszú komplex átszervezése. In: Fejes, József Balázs and Szűcs, Norbert (szerk.): A szegedi és hódmezővásárhelyi deszegregációt támogató Hallgatói mentorprogram. Öt év tapasztalatai. Belvedere Meridionale, Szeged, 2013. 58–70. [Szűcs, Norbert: The Hódmezővásárhely desegregation measures: a complex reorganization of the education system with an equal opportunities focus. In: Fejes, József Balázs and Szűcs, N. (eds.): The Szeged and Student mentoring program supporting desegregation in Hódmezővásárhely. Five years of experience. Belvedere Meridionale, Szeged, 2013. 58-70.].

The workshop series is accredited and included in the compulsory in-service training framework for teachers.

*Other desegregation actions that are running in 2019*

The Human Resource Development Operational Programme HRDOP-1.1.2-16 "**Woman's Opportunity - Training and Employment**" and HRDOP-1.1.3-17 "Growing Opportunity - Employment" constructions aim for the social acceptance and employment of the Roma (especially Roma women), since Roma people in Hungary face social prejudices and labour market discrimination. In the framework of these projects approximately 1000-1200 Roma people, mainly Roma women, are employed in public services and they are trained according to their needs.

The Human Resource Development Operational Programme HRDOP-1.3.2-16 "**Developing a mentoring network for catching up**" project aims to reach more disadvantaged people, especially Roma people, through social inclusion programmes. To this end, "empowerment mechanisms", process support, should be used to help ensure that empowerment programmes and disability mitigation programmes become more widely available to Roma and that Roma communities receive information and motivation for participation.

The HRDOP-1.3.4 "**Our Common Values - Diverse Society**" aims to broaden the scope of the Methodological, Educational and Cultural Centre for National Minorities and Romani (*Multifunkcionális Nemzetiségi – Roma Módszertani, Oktatási és Kulturális Központ*) established under the Social Infrastructure Operation Program SIOP-1.2.6<sup>54</sup> to:

- preserve national and ethnic identity;
- develop interactive programmes to strengthen inter-cultural dialogue and to enhance cooperation between social groups with differing identities;
- introduce the traditions and customs of Roma and other ethnic communities;
- collect and present values of minorities;
- develop supporting programmes that help to create "contact-points";
- create programmes to support dialogue between national minorities and majority society;
- promote activities that help the understanding and acceptance of different cultures.

**"Supporting HRDOP-1.6.3-17 County-level convergence policy cooperation in connection with local equal opportunity programs"**. The purpose of these grants is to establish a system of coordination and consultation at county level (NUTS3) in the convergence regions (NUTS2 except for Central Hungary, which is not a convergence region). The essence of the system is that convergence policy

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54 SIOP 1.2.6. „Creating infrastructure for the multifunctional Methodological, Educational and Cultural Centre for National Minorities and Romani.”

cooperation should take place not only at the national and local level (LAU-2) and possibly at the district level, but also at the county level (NUTS3). Cooperation between the counties must have an impact on the local equal opportunity programmes of the individual settlements and, through them, on the lives of their inhabitants. In the framework of the programme, all counties establish County Convergence Forums and develop service roadmaps. Benefiting counties develop a "County Pact of Opportunity Creation" documents in order to reinforce cooperation among NGOs in the county. The programme also supports community cooperation events.

All the projects above are relevant for the reporting period as they are still running.

## **2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion**

The State Secretariat for Administration, Deputy State Secretariat for Social Inclusion, Inclusion Resources Department, Ministry Interior (*Közigazgatási Államtitkárság Társadalmi Felzárkózásért Felelős Helyettes Államtitkárság, Felzárkózási Erőforrások Főosztálya, Belügyminisztérium*) deals with social groups in disadvantaged areas with the intention of promoting 'catching up'.<sup>55</sup> As a result of this targeted structure and approach, a significant part of the measures are likely to address and reach the Roma population, which are monitored by the State Secretariat. The Monitoring reports are published bi-annually. According to the latest Monitoring report in 2017,<sup>56</sup> the income and material condition of the Roma have been improved in the past few years, partly due to policy measures and developments that are addressing the Roma directly or indirectly: the AROPE indicator (the share of those at risk of poverty or social exclusion) decreased from 89.7% in 2014 to 82.8% in 2016 among the Roma, while severe material deprivation of the Roma population dropped from 78.1% in 2014 to 63.9% in 2016. A few examples for the Roma coverage of some major programmes: 3,861 Roma people were involved in the priority projects (GINOP-5.1.1 and VEKOP-8.1.1<sup>57</sup>) which will help in increasing the chances of long-term employment for disadvantaged groups and return to the open labour market exclusively through active labour market instruments. In terms of complex settlement segregation programmes, the project had been implemented in 55 out of 66 segregates by 2015-2016 (no more recent information is available). More than 5,000 people were enrolled in the programme, with more than 2,700 people successfully completing training programmes, including 61% of Roma. In terms of health programmes, approximately 36,000 people, including nearly 10,000 Roma, can be screened for complex lifestyles and lifestyle counselling within the four practice communities established within the Public Health Focused Primary Care Organization Model Program. By 1 March, 2017, the health

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<sup>55</sup> The term "catching up" entails a concept whereby the efforts of the individual are necessary for success. This makes it possible to limit those rights who do not make enough efforts to improve their peripheral social situation according to the Hungarian Government.

<sup>56</sup> Hungarian National Social Inclusion Strategy II – Monitoring report 2017 (Magyar Nemzeti Társadalmi Felzárkózási Stratégia II – Nyomonkövetési jelentés 2017) available at: <http://romagov.hu/download/nyomonkovetes2017/> (available only in Hungarian)

<sup>57</sup> GINOP-5.1.1 Economic Development and Innovation Operational Program „Road to the labour market” (Gazdaságfejlesztés és Innovációs Operatív Program Út a munkaerőpiacra) and VEKOP-8.1.1: Competitive Central Hungary Operational Program Road to the labour market” (Versenyképes Közép-Magyarország Operatív Program Út a munkaerőpiacra).

status of 11,200 people, of whom nearly 40% were Roma, had been assessed (no more recent information is available).

On 1 May 2019, an organisational change took place: the sector came under the control of the Ministry of the Interior (previously it was in the Ministry of Human Resources, *Emberi Erőforrások Minisztériuma*).

### Presence Programme

A most recent development in the field of Roma integration is that the Government decided to implement a complex and long-term programme aiming to enhance the social conditions of the 300 most disadvantaged settlements in Hungary, based on good practice of an NGO (Hungarian Charity Service of the Order of Malta (*Magyar Máltai Szereteszolgálat*)). The "Presence programme" aims to implement settlement-level measures in the field of social support. A social office is going to be installed in each settlement to develop health care, living conditions, employment, local economy and education with the help of community development professionals. The innovative element of the project comes from the fact that it provides services in a complex and flexible way, complementing the existing services and institutional system, coaching professionals, applying solutions beyond traditional tools, and adapting to local and individual circumstances. It is based on a method that is called a "diagnosis-based" system of supports tailored to local and individual needs. The main areas of intervention for the Presence programme are social support, public health, housing, employment, development of local economy, education and enhancing community well-being. The project activities are based on active, permanent social work in the target area and the fullest possible involvement of the target group in the work processes. The involvement of locals and local professionals is a key element of the process. Civil and religious organisations are the key partners of the responsible policy actor, the Ministry of Interior, in the implementation of the programme. The Commissioner of the Prime Minister (*miniszterelnöki biztos*) will coordinate the process, which begins for the first 31 settlements in 2019.<sup>58</sup>

The [Roma Civil Monitor](#) (RCM) report<sup>59</sup> on the implementation of Hungary's National Roma Integration Strategy was published in 2019. The report states that the situation of Roma is getting worse along

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58 "The selected 300 settlements have a total combined population of 270,000, most of them of Roma origin. The population's educational qualifications and rate of employment are low, and the percentage of homes without basic utilities is above the national average. The programme is based on the Hungarian Charity Service of the Order of Malta's Hungarian Heritage Award-winning Presence Programme which, rather than implementing a series of pre-determined tasks, seeks to find practical solutions to the problems emerging locally, and designates the steps to be taken in the direction of development by setting up social diagnoses." (August 28, 2019 - Ministry of Interior/MTI <https://www.kormany.hu/en/ministry-of-interior/news/implementation-of-social-integration-requires-cooperation> (retrieved on September 4, 2019)).

<sup>59</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary: Assessing the progress in four key policy areas of the strategy (Prepared by: Autonómia Foundation Eger Foundation of SZETA Together for Each Other Association Chance for Children Foundation Idetartozunk Association Motivation Educational Association Association of Roma Minority Representatives and Advocates of Nógrád County Pro Cserehát Association Romaversitas

with the general decline in public service (e.g. shortage of kindergarten and school teachers<sup>60</sup>), furthermore the Roma are suffering from incoherent education, employment, housing and health care policies. The report draws attention to the following issues which deepen the social exclusion of the Roma: lowering the age of the compulsory education from 18 to 16<sup>61</sup> and changing the rules of housing supports so that only middle-class and beyond can take advantage of it.<sup>62</sup>

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Foundation UCCU Roma Informal Educational Foundation), Directorate-General for Justice and Consumers 2019. available at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-hungary-2018-eprint-fin-2.pdf>.

<sup>60</sup> Civil society monitoring report on implementation of the national Roma integration strategy in Hungary: Assessing the progress in four key policy areas of the strategy. p. 12.

<sup>61</sup> See e.g. Civil society monitoring report on implementation of the national Roma integration strategy in Hungary: Assessing the progress in four key policy areas of the strategy. p. 9.

<sup>62</sup> See e.g. Civil society monitoring report on implementation of the national Roma integration strategy in Hungary: Assessing the progress in four key policy areas of the strategy. p. 30.

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Under Article 2(e) of Act II of 2007 on the admission and right of residence of third-country nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*)<sup>63</sup> (hereinafter: Act II of 2007), third country nationals under the age of 18 who enter Hungary without being accompanied by an adult person responsible under law or custom for their care and supervision, are considered to be unaccompanied children until they can be placed under the care of a person responsible for their care and supervision. Under Article 2 (t) of Act II of 2007, unaccompanied children are considered to be persons with special needs to whom specific procedural safeguards apply during asylum procedures.

However, the application of related procedural guarantees is hindered or excluded by two main factors:

- due to inadequate age determination procedures unaccompanied children may be treated as adults or erroneously determined to be adults by the authorities<sup>64</sup>
- during a state of crisis due to mass migration, which has been repeatedly extended and upheld since 2016<sup>65</sup> and especially after the amendments introduced by Act XX of 2017 on the modification of certain acts in relation to the aggravation of procedures conducted in the border protection zone (*2017. évi XX.*

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<sup>63</sup> Hungary, Act II of 2007 on the admission and right of residence of third-country nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), 5 January 2007, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=108621.369601](http://njt.hu/cgi_bin/njt_doc.cgi?docid=108621.369601).

<sup>64</sup> See in particular, Hungarian Helsinki Committee (2017), 'Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary', 17 May 2017 available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>, pp. 10-13. Reinforced by information provided by the Hungarian Helsinki Committee, telephone interview, 04.09.2019.

<sup>65</sup> The state of crisis due to mass migration was first ordered in relation to the whole territory of Hungary by Government Decree 41/2016 (III.9) on the declaration of a state of crisis due to mass migration in relation to the whole territory of Hungary and on the rules governing the declaration, maintenance and revocation of the state of crisis (*A tömeges bevándorlás okozta válsághelyzet*

*törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról*)<sup>66</sup> most of the child-specific characteristics of the Hungarian asylum procedure are not applicable to all unaccompanied children as their application is excluded by e.g. Article 80/H - 80/K of Act LXXX of 2007 on Asylum (*2007. évi LXXX. törvény a menedéjogról*)<sup>67</sup> (hereinafter: Act LXXX of 2007) when a state of crisis due to mass migration is declared. These procedural safeguards include – among others – the following:<sup>68</sup>

- a. unaccompanied children are automatically (by law) considered to be vulnerable applicants with special needs;
- b. vulnerable applicants are exempted from the border procedure in the transit zone;
- c. unaccompanied children' cases should be given priority;

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*Magyarország egész területére történő elrendeléséről, valamint a válsághelyzet elrendelésével, fennállásával és megszüntetésével összefüggő szabályokról szóló 41/2016. (III. 9.) Korm. Rendelet*) (hereinafter: GD 41/2016 (III.9), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=194421.364985](http://njt.hu/cgi_bin/njt_doc.cgi?docid=194421.364985)). The state of crisis due to mass migration was repeatedly prolonged by periods of six months by subsequent government decrees, the last related government decree has been issued in February 2019: Government Decree 2019 20/2019 on the modification of Government Decree 41/2016 (III.9) on the declaration of a state of crisis due to mass migration in relation to the whole territory of Hungary and on the rules governing the declaration, maintenance and revocation of the state of crisis (*2019 20/2019. (II. 22.) Korm. rendelet a tömeges bevándorlás okozta válsághelyzet Magyarország egész területére történő elrendeléséről, valamint a válsághelyzet elrendelésével, fennállásával és megszüntetésével összefüggő szabályokról szóló 41/2016. (III. 9.) Korm. rendelet módosításáról*), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=212923.365000](http://njt.hu/cgi_bin/njt_doc.cgi?docid=212923.365000). The Hungarian Helsinki Committee repeatedly maintained that the effect of GD 41/2016 (III.9) was prolonged despite the fact that the conditions set by Article 80/A (1) of Act LXXX of 2007 on Asylum (*2007. évi LXXX. törvény a menedéjogról*), 29 June 2007 (hereinafter: Act LXXX of 2007 on Asylum), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=110729.369602](http://njt.hu/cgi_bin/njt_doc.cgi?docid=110729.369602)) for ordering and maintaining a state of crisis due to mass migration has not been fulfilled, while Act XX of 2017 on the modification of certain acts in relation to the aggravation of procedures conducted in the border protection zone (*2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról*), 20 March 2017, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=201077.336340](http://njt.hu/cgi_bin/njt_doc.cgi?docid=201077.336340) also inserted criteria which lack objectivity. See Hungarian Helsinki Committee (2017), 'Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary', 17 May 2017, available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>, p. 5.

<sup>66</sup> Hungary, Act XX of 2017 on the modification of certain acts in relation to the aggravation of procedures conducted in the border protection zone (*2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról*), 20 March 2017, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=201077.336340](http://njt.hu/cgi_bin/njt_doc.cgi?docid=201077.336340). See also: Hungarian Helsinki Committee, *Hungary: Law on automatic detention of all asylum seekers in border transit zones enters into force, despite breaching human rights and EU law*, Information update, 28 March 2017, available at: <http://www.helsinki.hu/wp-content/uploads/HHC-Info-Update-rule39.pdf>.

<sup>67</sup> Hungary, Act LXXX of 2007 on Asylum (*2007. évi LXXX. törvény a menedéjogról*), 29 June 2007, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=110729.369602](http://njt.hu/cgi_bin/njt_doc.cgi?docid=110729.369602)

<sup>68</sup> See also: Hungarian Helsinki Committee (2017), 'Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary', 17 May 2017 available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>, pp. 10-13. Reinforced by information provided by the Hungarian Helsinki Committee, telephone interview, 04.09.2019.

- d. unaccompanied asylum-seeking children are appointed a child protection guardian within eight days from submitting an asylum application;
- e. unaccompanied asylum-seeking children cannot be held in immigration or asylum detention;
- f. unaccompanied asylum-seeking children are accommodated in a designated child protection facility, in the town of Fót;

In his “End of visit statement” and in a related Press Conference, the UN Special Rapporteur on the human rights of migrants called upon the Hungarian Government to end the declaration of (a) migration crisis and to update the measures linked to it as there was “no mass influx of migrants and asylum seekers”.<sup>69</sup>The Ministry of Justice (*Igazságügyi Minisztérium*)<sup>70</sup> maintained that it did not hold any data on the reasons for maintaining the state of crisis due to mass migration.<sup>71</sup> The National Directorate-General for Aliens Policing (*Országos Idegenrendészeti Főigazgatóság*, till 1 July 2019: Office of Immigration and Asylum, *Bevándorlási és Menekültügyi Hivatal*),<sup>72</sup> in its response to public data request, stated that the reasons for maintaining the state of crisis of mass migration do not constitute public data, and were therefore not made available for this research.<sup>73</sup> The Ministry of the Interior (*Belügyminisztérium*)<sup>74</sup> did not provide information as to the motivation of the further prolongation of the state of crisis due to mass migration in 2019, while maintaining that “the Police and National Directorate-General for Alien Policing continuously assess the well-foundedness of the state of crisis due to mass migration, of which they inform the Minister of the Interior”.<sup>75</sup>

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<sup>69</sup> Serta Sanderson, *UN special rapporteur slams Hungary's treatment of migrants*, 18 November 2019, available at: <https://www.infomigrants.net/en/post/18241/un-special-rapporteur-slams-hungary-s-treatment-of-migrants>. OHCHR, End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, Budapest, 17 July 2017. Available at: <https://kafkadesk.org/2019/07/25/un-special-rapporteur-condemns-hungarys-treatment-of-migrants/>.

<sup>70</sup> Ministry of Justice (*Igazságügyi Minisztérium*), available at: <https://www.kormany.hu/hu/igazsagugyi-miniszterium/elerhetosegek>.

<sup>71</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p.3.

<sup>72</sup> National Directorate-General for Aliens Policing (*Országos Idegenrendészeti Főigazgatóság*), available at: <http://www.bmbah.hu/index.php?lang=hu>.

<sup>73</sup> National Directorate-General for Alien Policing (2019), Response to public data request, 106-Ti-37435/1/2019., p. 1-2.

<sup>74</sup> Ministry of the Interior (*Belügyminisztérium*), available at: <https://www.kormany.hu/hu/belugyminiszterium>.

<sup>75</sup> Ministry of the Interior (2019), Information provided to public data request, 19 November 2019, BM/16589-9/2019., p. 3.

| Area of support  | Description  |
|--|--|
| <p><b>Residence permit</b></p> <p><i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p> | <p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>Under Article 29(1) c – d) of Act II of 2007, the authorities shall issue <b>humanitarian residence</b> permits to unaccompanied children (whether or not they have submitted an asylum application) and third country nationals who submitted an asylum application. Under Article 29 (2) of Act II of 2007, the validity of the humanitarian residence permit issued to unaccompanied children is one year which may be repeatedly prolonged by one year. Under Article 29(2) of Act II of 2007, the validity of humanitarian residence permits issued to asylum seekers, other than unaccompanied children, is six months and may be repeatedly prolonged by six months. Due to inadequate age determination procedures, however, unidentified unaccompanied children may only receive humanitarian residence permit as asylum seekers.</p> <p>Under Article 4(4) of the Act LV of 1993 on Hungarian Citizenship (<i>1993. évi LV. törvény a magyar állampolgárságról</i>)<sup>76</sup> unaccompanied children may also have <b>access to nationality</b> with favourable conditions: they are entitled to apply for naturalisation after five years of lawful residence in Hungary if their accommodation is ensured. If they have been recognised as refugees, three years of lawful residence is sufficient for favourable nationalisation (Article 4 (2) of Act LV. of 1993 on Hungarian Citizenship).</p> <p>According to information provided by the Ministry of the Interior, the number of measures taken by the Police, in relation to unaccompanied minors was 255 in 2016, 182 in 2017, three in 2018 and nine in 2019. The Ministry of the</p> |

<sup>76</sup> Hungary, Act LV of 1993 on Hungarian Citizenship (*1993. évi LV. törvény a magyar állampolgárságról*), 15 June 1993, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=19290.362941](http://njt.hu/cgi_bin/njt_doc.cgi?docid=19290.362941).

Interior maintains that “almost all” unaccompanied children placed in childcare institutions absconded within one-three days, and the Police try to find them and return them to the institutions, while a warrant is also installed in the SIS.<sup>77</sup> In the meantime, the Social and Child Protection Directorate (*Szociális és Gyermekvédelmi Főfelügyelőség*)<sup>78</sup> maintains that it endeavours to ensure the protection and care of unaccompanied children by the engagement of 24h personnel, night watch, regular individual and group sessions which provide information to the children on the dangers of illegal leave, human trafficking and smuggling. It also provides Posttraumatic Stress Disorder (PTSD) care, education and Hungarian classes.<sup>79</sup>

According to information provided by the Ministry of Human Resources to public data request, 26 unaccompanied children were placed in the child care protection system of Hungary in 2019 (in 2016 the number of children placed in the Hungarian child care protection system was 1,570, in 2017 313, in 2018 103). Data provided by the Ministry of Human Resources also show that, of the former unaccompanied children receiving after-care services, in 2016 five people received Hungarian citizenship, while this number was two in 2017, one in 2018, two in 2019 (till 25 October 2019).<sup>80</sup> Data provided by the Social and Child Protection Directorate is slightly different and maintains that in 2016 the number of children placed in the Hungarian child care protection system was 1,431, in 2017 and 279 in 2018 90).<sup>81</sup>

Under Article 62(3a)) of Article II of 2007, in a state of crisis due to mass migration, transit zones may be designated as places of residence for asylum seekers. Under Article 80/J(4) of Act LXXX of 2007, asylum seekers in transit zones are **not entitled to a residence permit** during the procedure as it is otherwise prescribed by Article 5 of the same act. Under Article 80/J (1) of Act LXXX of 2007, unaccompanied children are not exempted from the general rule that in

<sup>77</sup> Ministry of the Interior (2019), Information provided to public data request, 19 November 2019, BM/16589-9/2019., p. 1-2.

<sup>78</sup> Social and Child Protection Directorate (*Szociális és Gyermekvédelmi Főigazgatóság*), available at: <https://szgyf.gov.hu/>.

<sup>79</sup> Response of the Social and Child Protection Directorate to public data request, SZGYF-IKT-16756 – 20/2019, 19 November 2019., p. 2-4.

<sup>80</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019.p, 1, p. 3-4.

<sup>81</sup> Response of the Social and Child Protection Directorate to public data request, SZGYF-IKT-16756 – 20/2019, 19 November 2019., p. 3-4.

a state of crisis due to mass migration, asylum applications must be submitted in the transit zones. Article 80/J (6) only prescribes that if the asylum seeker is under the age of 14, his or her entry into the country has to be authorised and in his or her case the asylum procedure shall be conducted under the general rules. Similarly, the asylum authority shall take measures for the placement of the child in an adequate child-care institution and for the designation of a child protection guardian. It is noted though that due to inadequate age determination procedures, even unaccompanied children under the age of 14 may be forced to stay in the transit zones.<sup>82</sup> Asylum seeker children in the transit zones are not entitled to residence permits (see above Article 80/J (4)) or to favourable nationalisation conditions.

According to information provided by the Ministry of Human Resources to public data request, the following groups of unaccompanied children are placed in the Hungarian child-care system in (in the Fót children's Home) the case of a crisis of mass migration:

- unaccompanied asylum seeker children under the age of 14
- unaccompanied children who have received refugee or subsidiary protection status
- unaccompanied children arriving out of migration context (who became unaccompanied due to the accident, illness or criminal proceedings of their parents)

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<sup>82</sup> Contrary to EASO, UNHCR, UNICEF guidelines, age determination is not of a multidisciplinary character in Hungary, and mainly consists of a simple physical observation of the child by a police doctor at the border, whose medical opinion is difficult to challenge at later phases of the procedure. On the concerns related to inadequate age determination procedures see Hungarian Helsinki Committee (2017), 'Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary', 17 May 2017 available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>, pp.10-12. Confirmed by information provided by the Hungarian Helsinki Committee, telephone interview, 04.09.2019. The Ministry of the Interior in relation to public data request stated that age-determination is the task of medical-experts during the asylum and alien policing procedures and, for the doctors involved, the judicial medical experts of the National Expert and Research Centre (*Nemzeti Szakértő és Kutató Központ*) has compiled a protocol as a recommendation, which focuses on physical assessment. According to the Ministry of the Interior, "the psychological maturity, cultural, ethnic factors, characteristics are taken into account individually in every case". The Ministry of the Interior also maintained that "at present, there is no medical method which could determine the age of persons in an exact manner". Ministry of the Interior (2019), Information provided to public data request, 19 November 2019, BM/16589-9/2019., p. 3.

- young adults who have received refugee/subsidiary protection status and asked for and received after-care services.  
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Note shall be taken that the Hungarian Helsinki Committee successfully challenged the transfer of eight unaccompanied asylum seeking children between the age of 14 and 18 to the transit zones by requesting interim measures from the European Court of Human Rights.<sup>84</sup> Similarly, in the case of *Ilias and Ahmed vs Hungary* the European Court of Human Rights, in its non-final judgment rendered in 2017, declared the detention of asylum seekers in transit zones without appropriate proceedings for ordering their detention and for assuring the lawfulness of the applicant’s detention to be unlawful. The ECtHR observed, in particular, that “the applicants’ detention consisted in a de facto measure, not supported by any decision specifically addressing the issue of deprivation of liberty (...) In these circumstances, it is quite inconceivable how the applicants could have pursued any judicial review of their committal to, and detention in, the transit zone – which itself had not been ordered in any formal proceedings or taken the shape of a decision.”<sup>85</sup> This judgment of the ECtHR, however, was challenged by the government and has been referred to the Grand Chamber. In November 2019, the Grand Chamber reinforced that there has been a violation of Article 3 of the ECHR due to the applicant’s expulsion to Serbia. The ECtHR stated, in particular, “In sum, having regard, in particular, to the fact that there was an insufficient basis for the Government’s decision to establish a general presumption concerning Serbia as a safe third country, that in the applicants’ case the expulsion decisions disregarded the authoritative findings of the UNHCR as to a real risk of denial of access to an effective asylum procedure in Serbia and summary removal from Serbia to North Macedonia and then to Greece, and that the Hungarian authorities exacerbated the risks facing the applicants by inducing them to enter Serbia illegally instead of negotiating an orderly

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<sup>83</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019., p. 2.

<sup>84</sup> Hungarian Helsinki Committee (2017), ‘Hungary: Law on automatic detention of all asylum seekers in border transit zones enters into force, despite breaching human rights and EU law’, Information update, 28 March 2017, available at: <http://www.helsinki.hu/wp-content/uploads/HHC-Info-Update-rule39.pdf>.

<sup>85</sup> European Court of Human Rights (ECtHR), *Ilias and Ahmed vs. Hungary*, No. [47287/15](https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22%22ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%22%7D,%22itemid%22:%5B%22001-172091%22%7D%7D), judgment of 14 March 2017, referral to the Grand Chamber: 18.09.2017. available at: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22%22ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%22%7D,%22itemid%22:%5B%22001-172091%22%7D%7D>, para. 75.

return.”<sup>86</sup> However, in relation to Article 5 (1) of the ECHR, the Grand Chamber reversed the former Chamber judgment stating that the “the applicants’ complaints under Article 5 §§ 1 and 4 of the Convention are incompatible *ratione materiae* with the provisions of the Convention and accordingly *declares* this part of the application inadmissible”, as the ECtHR did not qualify their stay in the transit zone as deprivation of liberty in view of the relatively short period of time they spent in the transit zone (23 days) and that the applicants could “realistically” return to Serbia where their lives would not have been in imminent danger. The ECtHR stated, in particular, that “the applicants did not cross the border from Serbia because of a direct and immediate danger to their life or health in that country but did so of their free will”, “the Hungarian authorities did not seek to deprive the applicants of their liberty and that they ordered them to leave Hungary on the very day of their entry” and that the applicants could realistically leave in the direction of Serbia”.<sup>87</sup> The ECtHR also noted that “in the absence of other significant factors, the situation of an individual applying for entry and waiting for a short period for the verification of his or her right to enter cannot be described as deprivation of liberty imputable to the State, since in such cases the State authorities have undertaken vis-à-vis the individual no other steps than reacting to his or her wish to enter by carrying out the necessary verifications”.<sup>88</sup>

According to information provided by the Hungarian Helsinki Committee, there are still unaccompanied children in the transit zone at present and it is highly difficult to achieve their release.<sup>89</sup>

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<sup>86</sup> European Court of Human Rights (ECtHR), *Ilias and Ahmed vs. Hungary*, No. [47287/15](https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D), judgment of 21 November 2019, Grand Chamber, Para. 163. available at: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D>.

<sup>87</sup> European Court of Human Rights (ECtHR), *Ilias and Ahmed vs. Hungary*, No. [47287/15](https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D), judgment of 21 November 2019, Grand Chamber, paras. 223-224, 236. available at: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D>.

<sup>88</sup> European Court of Human Rights (ECtHR), *Ilias and Ahmed vs. Hungary*, No. [47287/15](https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D), judgment of 21 November 2019, Grand Chamber, paras. 225. available at: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22CASE%20OF%20ILIAS%20AND%20AHMED%20v.%20HUNGARY%22%2D%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2D%22CHAMBER%22%2D%22itemid%22:%5B%22001-198760%22%5D%7D>.

<sup>89</sup> Information provided by the Hungarian Helsinki Committee, telephone interview, 04.09.2019.

In his “End of visit statement”, the UN Special Rapporteur on the human rights of migrants also concluded that “the severe restrictions on the freedom of movement of asylum seekers, as well as the carceral environment in the transit zones qualify as detention in nature”. The UN Special Rapporteur on the human rights of migrants was particularly concerned that all asylum seekers, including pregnant women, children as young as 8 months and unaccompanied children between 14 and 18 years old, are automatically detained in the transit zones for the entire duration of the asylum procedure and also urged “Hungary to end the practice of administrative detention of children, whether with families or unaccompanied, and explore alternatives to detention for families with children and unaccompanied children because detention is never in the best interests of the child.”<sup>90</sup>

Furthermore, the UN Rapporteur was also concerned by “the lack of substantive judicial review on the lawfulness of the detention and the asylum decision.” The UN Rapporteur remarked that “asylum seekers are given only 3 days to submit an appeal against a rejection decision and the reviewing courts do not have the power to alter the administrative decision on the asylum claim.” He also claimed that “asylum seekers are not given an actual chance to appear before a judge, neither physically nor through video.” Though there is a container designated as a courtroom at each transit zone, “none of the asylum seekers” he met “have been to this container or seen a judge, including those who have been there for over a year”. The UN Rapporteur reinforced that the prolonged administrative detention of asylum seekers without the possibility of an administrative or judicial review or remedy amounts to arbitrary detention.”<sup>91</sup>

In his statement he described the “prison-like environment” of the transit zones, and health care provided in the transit zones in the following way:

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<sup>90</sup> OHCHR, End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, Budapest, 17 July 2017. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24830>.

<sup>91</sup> OHCHR, End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, Budapest, 17 July 2017. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24830>.

- razor-wire fence surrounds not only the perimeter of the transit zones but also each sector within the zones, “razor wire is placed on the roof of the living containers that accommodate unaccompanied asylum-seeking children, asylum-seeking families with small children, and pregnant women.”

- at the time of his visit there were 280 people in the transit zone, most of them families with children and unaccompanied children, and children with special needs. Many of them have been detained in the transit zone for over a year.

- asylum seekers’ movements within the transit zones are strongly restricted, “whether to visit other sectors, to meet with their attorney or to visit the medical unit, (they) are escorted by armed security guards. (...) Asylum seekers, including young children are confined in their designated sectors. Interaction between the sectors is very limited. Visits to other sectors are only allowed for up to one hour per day upon request.

- there were serious shortcomings as to appropriate medical and psychological care and treatment: “a doctor is only present in the transit zones a few hours a day, there is no gynaecologist or paediatrician, while a large percentage of the asylum seekers are women and children. Women and children with serious chronic diseases and cancer remain untreated for months”. Consultations with doctors, often conducted without interpretation, access to specialist or hospital check-up is very limited.<sup>92</sup>

In its response to public data request, as to the placement of unaccompanied children in transit zones, the Ministry of the Interior maintained that women, families, unaccompanied children and men are placed in separate sectors, so the protection of vulnerable groups is provided. The care and sustenance (accommodation, meals five times a day, social workers, health care) of unaccompanied children and their access to public education, which is compulsory between the age of 6 and 16, are also ensured in the community premises of the sectors by teachers designated by the Kiskőrösi and Szeged educational districts for the transit zone in Tompa and Rösztke, respectively. At present – due to the support of the Asylum, Migration and Integration Fund, the presence of a psychiatrist is also ensured.<sup>93</sup>

<sup>92</sup> OHCHR (2019), End of visit statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, Budapest, 17 July 2017. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24830>.

<sup>93</sup> Ministry of the Interior (2019), Information provided to public data request, 19 November 2019, BM/16589-9/2019., p. 4-5.

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| <p><b>Guardianship (representative under Reception Conditions Directive Article 24.1)</b></p> | <p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p> <p>Under Article 4(1) a) and c) of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról) (hereinafter: Act XXXI of 1997)<sup>94</sup> its scope of application extends to minors and young adults, who have been recognised as refugees, and to unaccompanied children under the age of 18 – unless it is a state of crisis of mass migration when – due to a modification enacted in 2017<sup>95</sup> – unaccompanied children between 14-18 do not fall under the scope of Act XXXI of 1997. Under Article 5 c) of Act XXXI of 1997, persons over eighteen (persons of age) and under twenty-four are considered to be young adults.</p> <p>When they <b>fall under the scope</b> of Act XXXI of 1997, the Guardianship Authority is to designate child protection guardians to unaccompanied children (Article 84 (1) c)) and they are – as young adults – also entitled to “after-care” services (Article 9 (1) k) of Act XXXI of 1997). However, in a <b>state of crisis</b> of mass migration, as currently declared in Hungary, no such guardians are designated to unaccompanied children between the age of 14-18. Similarly, no child-care services or after- care services are provided to them either.</p> |
| <p><b>Accommodation</b><br/><b>Reception Conditions Directive Article 24.2</b></p>            | <p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p>   |

<sup>94</sup> Hungary, Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról), 8 May 1997, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=29687.370717#foot10](http://njt.hu/cgi_bin/njt_doc.cgi?docid=29687.370717#foot10).

<sup>95</sup> Hungary, Act XX of 2017 on the modification of certain acts in relation to the aggravation of procedures conducted in the border protection zone (2017. évi XX. törvény a határőrizeti területen lefolytatott eljárás szigorításával kapcsolatos egyes törvények módosításáról), 20 March 2017, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=201077.336340](http://njt.hu/cgi_bin/njt_doc.cgi?docid=201077.336340), Article 1

The Ministry of Human Resources in its response to public data request emphasised that unaccompanied children who have been placed in the child care system of Hungary and received subsidiary protection or refugee status before they reached full age and wish to continue their studies or wish to work are provided with a possibility to do so.<sup>96</sup> Similarly, under Article 53/A (1)-(2) of Act XXXI of 1997, former unaccompanied children recognised as refugees or receiving subsidiary protection status are entitled to **after-care services** as young adults if they fall under the scope of Act XXXI of 1997. In a state of **crisis of mass migration**, which is applicable at present, unaccompanied children between 14-18 do not fall under the scope of Act XXXI of 1997. Under Article 5 c) of Act XXXI of 1997, persons below the age of 24 are considered to be young adults.

After-care services – if necessary – are ensured by the foster parent, a child-care institution, after-care institution or other external institutions providing accommodation, which are run by the afore-mentioned child-care or after-care institutions or by the regional child protection services. According to information provided by the Social and Child Protection directorate, after-care services are available for those who have reached 18, have been taken into care by the guardianship office and still study.<sup>97</sup> According to data provided by the Ministry of Human Resources in 2016, six people placed in the Hungarian child-care system as unaccompanied minors were admitted as young adults into the after-care system. This number was 18 in 2017, eight in 2018, one in 2019 (till 25 October 2019). The Ministry of Human Resources maintained that former unaccompanied children who are admitted to after-care services receive maintenance, care and support during their studies or after they start working in the same way as Hungarian nationals. The Ministry of Human Resources also remarked that the most challenging task is the education of unaccompanied children and young adults, which the educational and child-care institutions endeavour to foster by providing language courses, learning assistance, development of skills and abilities, and trauma processing in cooperation with NGOs.<sup>98</sup>

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<sup>96</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019., p. 2-3.

<sup>97</sup> Response of the Social and Child Protection Directorate to public data request, SZGYF-IKT-16756 – 20/2019, 19 November 2019., p. 3.

<sup>98</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019., p. 2-3.

The child-care institution so far designated to accommodate unaccompanied asylum seeking children between the age of 14-18 was the Károlyi István Children's Home (*Károlyi István Gyermekközpont*) in Fót, maintained by the Directorate-General of Social Affairs and Child Protection (*Szociális és Gyermekvédelmi Főfelügyelőség*), which is under the authority of the Ministry of Human Resources (*Emberi Erőforrások Minisztériuma*). In February 2019, however, the government announced the closure of the Károlyi István Children's Home in Fót. To date the Ministry of Human Resources has failed to provide information to a request for public data, submitted by MP Bernadett Szél, as to where the children will be accommodated after the closure of the institution. On 20 September 2019 the first instance judgment of the Municipal Court obliged the Ministry to reveal the related public data. It also turned out during the judicial proceedings that there were no related expert plans prepared by the Ministry of Human Resources either.<sup>99</sup> The request for the registration of a draft parliamentary decision on the settlement of the situation of Károlyi István Children's Home,<sup>100</sup> submitted by MP Bernadett Szél, could not be discussed on 2 December 2019 in the relevant Public Welfare Parliamentary Committee as all FIDESZ-KDNP MPs were absent, thus, the committee could not form a quorum. From the repeated committee session (11. December 2019), all FIDESZ-KDNP left before a decision could be taken, leaving the committee again without quorate.<sup>101</sup> According to information provided by the

<sup>99</sup> Hungarian Helsinki Committee (2019), 'Törvénytörő a kormány titkolózása a fóti gyermekközpont jövőjéről' (*The government's secrecy about the future of the Children's Home in Fót is unlawful*), 20.09.2019. available at: <https://www.helsinki.hu/torvenyserto-a-kormany-titkolozasa-a-foti-gyermekkozpont-jojojeroj/?fbclid=IwAR1V5kvtDx0qPfrsRIUc4xf5C7hX1pRrFcbv9xyeY5GfBx-1AO1bcN8VBk>

<sup>100</sup> MP Bernadett Szél (2019), H/8188. *A fóti Károlyi István Gyermekközpont helyzetének a gyermekek érdekeivel összhangban történő rendezéséről szóló határozati javaslat*, 20.11.2019, (Draft parliamentary decision on the settlement of the Károly István Children's Home in Fót in accordance with the interests of the children), available at: <https://www.parlament.hu/irom41/08188/08188.pdf>.

<sup>101</sup> Parliament of Hungary (2019), Minutes on the session of the Public Welfare Committee of the Hungarian Parliament, 2 December 2019. (*Jegyzőkönyv az Országgyűlés Népjóléti bizottságának 2019. december 2-án 11 órára összehívott üléséről*), NJB-41/19-2/2019., available at: <https://www.parlament.hu/documents/static/biz41/bizjv41/NJB/1912021.pdf>. See also: Bizottsági jelenléti ülésonként 2018- (Committee members presence according to sessions 2018- ) for sessions 2 December 2019 and 11 December 2019, available at: [https://www.parlament.hu/web/guest/az-orszaggyules-bizottsagai?p\\_p\\_id=hu\\_parlament cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8&p\\_p\\_lifecycle=1&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_auth=owGUqhC7& hu\\_parlament cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8\\_pairAction=%2Finternet%2Fcplsql%2Ffogy\\_biz.biz\\_jelen\\_main%3FP\\_BIZTIP%3Dnull%26P\\_BIZ%3Dnull%26P\\_Biz%3DA479%26P\\_Ckl%3D41%26P\\_Datum\\_Tol%3D2019.12.02%26P\\_Datum\\_Ig%3D2019.12.02%26P\\_Lista%3DI%26P\\_Sorsz%3D21](https://www.parlament.hu/web/guest/az-orszaggyules-bizottsagai?p_p_id=hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=owGUqhC7& hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Ffogy_biz.biz_jelen_main%3FP_BIZTIP%3Dnull%26P_BIZ%3Dnull%26P_Biz%3DA479%26P_Ckl%3D41%26P_Datum_Tol%3D2019.12.02%26P_Datum_Ig%3D2019.12.02%26P_Lista%3DI%26P_Sorsz%3D21) and [https://www.parlament.hu/web/guest/az-orszaggyules-bizottsagai?p\\_p\\_id=hu\\_parlament cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8&p\\_p\\_lifecycle=1&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_auth=owGUqhC7& hu\\_parlament cms\\_pair\\_portlet\\_PairProxy\\_INSTANCE\\_9xd2Wc9jP4z8\\_pairAction=%2Finternet%2Fcplsql%2Ffogy\\_biz.biz\\_jelen\\_main%3FP\\_BIZTIP%3Dnull%26P\\_BIZ%3Dnull%26P\\_Biz%3DA479%26P\\_Ckl%3D41%26P\\_Datum\\_Tol%3D2019.12.11%26P\\_Datum\\_Ig%3D2019.12.11%26P\\_Lista%3DI%26P\\_Sorsz%3D22](https://www.parlament.hu/web/guest/az-orszaggyules-bizottsagai?p_p_id=hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=owGUqhC7& hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Ffogy_biz.biz_jelen_main%3FP_BIZTIP%3Dnull%26P_BIZ%3Dnull%26P_Biz%3DA479%26P_Ckl%3D41%26P_Datum_Tol%3D2019.12.11%26P_Datum_Ig%3D2019.12.11%26P_Lista%3DI%26P_Sorsz%3D22).

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|  | <p>Ministry of Human Resources to public data request, the government plans to place unaccompanied children in children's homes but there is no final decision in relation to its exact location.<sup>102</sup></p>  |
| <p><b>Return</b><br/><i>Return Directive, Article 10</i></p> | <p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>Under Article 45(5) of Act II of 2007, besides respecting the principle of non-refoulement, unaccompanied children may <b>only be expelled</b> if the reunification of the family or adequate institutional care is ensured for the unaccompanied children in the country of origin or in the receiving state.</p> <p>The HHC is not aware of any case where asylum-seeking children were rejected and their deportation was organised to their country of origin. In their view “rejected unaccompanied children asylum-seekers usually abscond and most probably continue their journey in an irregular manner towards Western Europe. Since September 2015, Serbian authorities are reluctant to readmit third-country nationals.”<sup>103</sup></p> |
| <p><b>Others</b></p>   | <p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>Unaccompanied children reaching majority without receiving refugee status, subsidiary protection status or other form of protection are entitled to favourable nationalisation under Article 4(4) after five years of lawful residence in Hungary if their accommodation is ensured (which may be problematic). Otherwise, general rules on third country nationals</p>   |

<sup>102</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019., p. 3.

<sup>103</sup> Hungarian Helsinki Committee (2017), 'Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary', 17 May 2017, available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>, p.7. Confirmed by information provided by the Hungarian Helsinki Committee, telephone interview, 04.09.2019.

apply (e.g. Article 17, Act II of 2007), but it is also possible to authorise a stay on humanitarian grounds (e.g. under Article 13 (3), Act II of 2007).<sup>104</sup>

According to information provided by the Károlyi István Children's Home via the Ministry of Human Resources, under the basis of Article 35 (7) of Act LXXX of 2007 the authority shall prioritise the asylum procedure of unaccompanied children. So far, the asylum authority could always recognise the refugee or subsidiary protection status of those unaccompanied children who otherwise fulfilled the relevant criteria before they reached 18, so these children became entitled to after-care services as well as a related residence permit. The Ministry of Human Resources also stated that, as of 31 March 2017, unaccompanied children above 14 may only be transferred to the Children's Home (and under the Hungarian child protection system) if their asylum application has already been granted.<sup>105</sup>

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<sup>104</sup> Information provided by the Ministry of Human Resources to public data request via email, 27 November 2019.

<sup>105</sup> Information provided by the Ministry of Human Resources to public data request via email, 27 November 2019.

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

The Hungarian Parliament adopted **Act XXXIV of 2019** on the necessary amendments to implement the European Union's data protection reform (*2019. évi XXXIV. törvény az Európai Unió adatvédelmi reformjának végrehajtása érdekében szükséges törvénymódosításokról*)<sup>106</sup> that entered into force on 26 April 2019. While the umbrella law on data protection (Act CXII of 2011) was amended prior to the entry into force of the GDPR in 2018, Act XXXIV of 2019 aimed to amend 86 sectoral laws that provide for data protection mechanisms. The amending Act now provides for detailed rules in relation to state registries in the area of transportation, labour law, social law, operation of national security services, health law, intellectual property law, accounting, mandatory vehicle insurance, storage of criminal records etc. The new rules designated bodies that are entitled to control or process data, identified the grounds for lawful data processing, and determined the scope of data processing and controlling in each sector.

In 2019, the National Authority for Data Protection and Information Freedom (*Nemzeti Adatvédelmi és Információszabadság Hatóság*) launched an **online system** to make the **notification** duty easier to data processors on data **breach** incidents as regulated in Article 33 of the GDPR.<sup>107</sup> The use of the online notification system is not mandatory, therefore, the Authority also provides for downloadable forms in case the data processors prefer the paper form.<sup>108</sup>

Another online system is also offered by the Authority to publish the contact details of the **data protection officers** as requested in Article 37(7) of the GDPR.<sup>109</sup> Data processors and controllers must communicate the contact details of the data protection officers through this system. In case the person registered in

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<sup>106</sup> Hungary, Act XXXIV of 2019 on the necessary amendments to implement the European Union's data protection reform (*2019. évi XXXIV. törvény az Európai Unió adatvédelmi reformjának végrehajtása érdekében szükséges törvénymódosításokról*), 26 April 2019, available at: <https://mkogy.iogtar.hu/jogszabaly?docid=A1900034.TV>

<sup>107</sup> [www.naih.hu/adatvedelmi-incidensbejelent--rendszer.html](http://www.naih.hu/adatvedelmi-incidensbejelent--rendszer.html), last accessed on: 22 September 2019

<sup>108</sup> [www.naih.hu/adatvedelmi-incidensbejelent--rendszer.html](http://www.naih.hu/adatvedelmi-incidensbejelent--rendszer.html), last accessed on: 22 September 2019

<sup>109</sup> [www.naih.hu/adatvedelmi-tisztvisel--bejelent--rendszer.html](http://www.naih.hu/adatvedelmi-tisztvisel--bejelent--rendszer.html), last accessed on: 22 September 2019

the system does not approve this registration in 15 days, the Authority will not make the name and contact details of the person public, therefore, the system needs personal approval of the communicated data protection officer prior to publication of his/her contact details.

There is no information available on any known cooperation between the Authority and civil society organisations active in the field of data protection in 2019. The National Authority for Data Protection and Information Freedom published **resolutions** in relation to the implementation of the GDPR in four instances in 2019:

- With respect to the controlling biometric data of employees, the Authority stressed that consent cannot be a legit ground for processing such data of the employees given the strong hierarchy between the employer and the employees. Therefore, establishing an obligation for the employee to give consent on the processing of his/her biometrical data incorporated in the employment contract is not legit. The Authority stressed the most common ground on how to obtain consent from the employee on processing biometrical data should be based on Article 6(f) of the GDPR. As biometric data is considered a special category of personal data as per Article 9(1) of the GDPR, the Authority emphasises the importance of keeping the provisions of Article 9 of the GDPR (requirements and restrictions on processing of special categories of personal data) when controlling biometric data of the employees.<sup>110</sup>
- In relation to the Hungarian registry of private entrepreneurs, the Authority, by answering a question from a private entrepreneur who believed the public registry on the entrepreneurs' data violates the GDPR, stressed that the registry qualifies as lawful data controlling given that the safety of market economy requires the publicity of the data of private entrepreneurs in order to entitle their business partners to check on the private entrepreneur in the various stages of the contracting procedure (e.g. prior to entering into a transaction with the entrepreneur, lodging or settling disputes arisen from the transaction etc.).<sup>111</sup>

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<sup>110</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Resolution no. NAIH/2019/1074, 27 January 2019, available at: [www.naih.hu/files/2019-01-28-NAIH-2019-1074-biometr.pdf](http://www.naih.hu/files/2019-01-28-NAIH-2019-1074-biometr.pdf).

<sup>111</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Resolution no. NAIH/2018/5322/4/V., 25 January 2019, available at: [www.naih.hu/files/NAIH-2018-5233-4-V.pdf](http://www.naih.hu/files/NAIH-2018-5233-4-V.pdf).

- The Authority interpreted the data controlling activities of employers in relation to the criminal records of the employees. As Hungarian law provides for the opportunity of the employer to obtain a certificate of good conduct concerning the employee, and such a certificate contains data on the criminal records of the employee, the client in the Authority's procedure believed this imposes unlawful data controlling. The Authority stressed that Article 6(1)(c) of the GDPR provides for a lawful ground to this form of controlling.<sup>112</sup>
- The Authority interpreted Article 5(1)(e) of the GDPR (storage limitation) in relation to an employer's action that restored an archived electronic mailbox of its former employee in order to search for a document the employer could not recover from its database. Restoring the archived mailbox happened years after the employee terminated his employment relationship to the employer. The Authority concluded the restoration of the electronic mailbox was an action that breached Article 5(1)(e) of the GDPR given that the mailbox in question was used for private and business purposes by the former employee and that the employee was not provided with clear information on what was going to happen to his mailbox after the termination of his labour contract. The employer made the former employee believe his mailbox was deleted permanently while it was archived. Moreover, the restoration of the former employee's mailbox was ordered without purposes in the public interest, scientific or historical research or statistical purposes. The Authority stressed the employee has a right to know what is going to happen to his electronic mailbox after the termination of his employment.<sup>113</sup>

The National Authority for Data Protection and Information Freedom's **report on its 2018 activities** was published in March 2019.<sup>114</sup> According to the report, the workload of the Authority increased significantly after the GDPR had entered into force. While the Authority had 6,273 new cases in 2017, this number was 18,654 in 2018. Data for 2019 are not available. According to the 2018 report, most cases concerned the following topics: data processing of employers,

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<sup>112</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Resolution no. NAIH/2019/1073, 22 January 2019, available at: [www.naih.hu/files/NAIH\\_2019\\_1073\\_erkolcsi\\_biz.pdf](http://www.naih.hu/files/NAIH_2019_1073_erkolcsi_biz.pdf).

<sup>113</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Resolution no. NAIH/2019/51/11, 11 December 2019, available at: <https://www.naih.hu/files/NAIH-2019-51-hatarozat.pdf>.

<sup>114</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Report on the Authority's activities in 2018, March 2019, page 5, available at: [www.naih.hu/files/Beszamolo-2018-MR.PDF](http://www.naih.hu/files/Beszamolo-2018-MR.PDF).

right to access, healthcare providers as data controllers, data controlling activity of debt assignment companies, cases related to the application of closed circuit televisions (hereinafter: CCTV), unlawful rejection of claims coming from data subjects, bank cases.<sup>115</sup>

While the National Authority for Data Protection and Information Freedom will publish its report on the Authority's 2019 activities in Spring 2020, its practice on sanctioning the violations against the data protection legal framework can be deduced from some **individual decisions** made in 2019. Based on these decisions, the Authority seems to pay particular attention to ensure that data processors and controllers provide for the rights granted to the data subjects in the GDPR (Articles 12-23).<sup>116,117</sup> Also, the Authority often evaluates whether data processors and controllers respect the principles as stated in Articles 5-11 of the GDPR.<sup>118</sup> In one case, the Authority found the data subject's rights to rectification and erasure were not properly ensured when a car leasing company requested a copy of the address card of the data subject to register his new postal address and did not erase his older address. Also, the data subject requested his phone number to be removed from the company's registry. This request, however, was denied as the company claimed it needed this information to be able to reach the debtor in case he fails to pay the instalments of the lease. The Authority concluded the car leasing company, in the role of the data controller failed to perform a legitimate interest balancing test when denying the data subject's request for rectification and erasure. The Authority imposed a fine of 1 million HUF (cc. 3,000 EUR). In the reasoning of the decision, the Authority took into the account the intentional practice of the data controller and that this practice seriously infringed the data subject's privacy, and that this practice violated multiple provisions of the GDPR (Articles 5(1)(b)-(c), 6(1), 6(4)).<sup>119</sup> In another case, the Authority imposed a fine of 1 million HUF (cc. 3,000 EUR) when a local government transferred the personal data of a whistleblower to the head of the institution against which the data subject filed a claim. While the local government was the supervisory authority over the institution concerned by the claim, it was a serious violation to disclose the identity of the whistleblower to the head of the institution. The Authority took into account the serious

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<sup>115</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Report on the Authority's activities in 2018, March 2019, pages 12-13, available at: [www.naih.hu/files/Beszamolo-2018-MR.PDF](http://www.naih.hu/files/Beszamolo-2018-MR.PDF).

<sup>116</sup> These rights include the following: right to information where personal data is collected from the data subject, right of access by the data subject, rectification and erasure, right to restriction of processing, right to object).

<sup>117</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Decisions no. NAIH 2019/1841, NAIH 2019/363, NAIH 2019/2526, NAIH 2019/596, available at: [https://gdpr.blog.hu/2019/03/25/ujabb\\_naih\\_birsagok\\_a\\_gdpr\\_alapjan](https://gdpr.blog.hu/2019/03/25/ujabb_naih_birsagok_a_gdpr_alapjan).

<sup>118</sup> These principles are the following: lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality, accountability).

<sup>119</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Decision no. NAIH 2019/2526, 4 March 2019, available at: [www.naih.hu/files/NAIH-2019-2526-2-H-hatarozat.pdf](http://www.naih.hu/files/NAIH-2019-2526-2-H-hatarozat.pdf).

consequences of the unlawful action of the local government, and that the data controlling body was a public authority. The local government, soon after it realised the whistleblower's data was disclosed unlawfully, started an internal investigation and cooperated with the Authority that the Authority took as mitigating circumstances when deciding on the amount of the monetary fine.<sup>120</sup>

Civil society organisations and the Office of the Commissioner for Fundamental Rights heavily criticised in April 2019 that several candidates and prominent politicians of Fidesz (the governing political party) used children in the European Parliamentary election campaign when sharing videos and images on their visits to kindergartens, elementary schools without the permission of the parents.<sup>121</sup>

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<sup>120</sup> National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*): Decision no. NAIH 2019/596, 28 February 2019, available at: [www.naih.hu/files/NAIH-2019-596-hatarozat.pdf](http://www.naih.hu/files/NAIH-2019-596-hatarozat.pdf).

<sup>121</sup> Office of the Commissioner for Fundamental Rights (*Alapvető Jogok Biztosának Hivatala*): Children shall not be used as tools in political campaigns (*A gyerekek ne legyenek a pártpolitika díszletei*), available at: <https://www.ajbh.hu/en/kozlemenyek/-/content/qzyKPkTyQAvM/a-gyermekek-ne-lyegenek-a-partpolitika-diszletei-eszkozei-az-alapveto-jogok-biztosa-es-helyettesei-kozos-kozlemenye>. See also: Eötvös Károly Institute (*Eötvös Károly Intézet*): The 2019 EP elections and political pedophilia (*A 2019-es EP választás és a politikai pedofília*), available at: <http://ekint.org/bejegyzes/2019-05-01/a-2019-es-ep-valasztas-es-a-politikai-pedofilia-kifogas-minta>.

## 2. Artificial intelligence and big data

| MS | Actor*   | Type*          | Description  | Are Ethical concerns mentioned? (yes/no) | Are Human Rights issues mentioned?(yes/no) | Reference   |
|----|----------|----------------|--|--|--|---|
| HU | Academia | Other projects | The Budapest University of Technology and Economics ( <i>Budapesti Műszaki és Gazdaságtudományi Egyetem</i> ) announced a competition titled ‘TMIT Internet of Things 2019’ ( <i>Távközlési és Médiainformatikai Tanszék Dolgok Internete 2019</i> ) in February 2019. The University expected innovative ideas in relation to transportation in big cities and the internet of things. In order to apply, applicants had to submit the description of their innovative ideas and what impact these ideas might have on the lives of people. While the call was primarily centered around technology, the University expected applicants to put their ideas into a | No                                       | No   | Budapest University of Technology and Economics Telecommunications and Media Informatics Department ‘TMIT Internet of Things 2019’ call is available at:<br><br><a href="https://www.tmit.bme.hu/iot-verseny-2019">https://www.tmit.bme.hu/iot-verseny-2019</a> |

|           |          |              |  |    |    |  |
|-----------|----------|--------------|--|----|----|--|
|           |          |              | multidisciplinary perspective given that risks imposed by the application of the new technology were important to be also demonstrated in the applications.  |    |    |  |
| <b>HU</b> | Academia | Report/study | A member of the Hungarian Academy of Sciences Wigner Research Institute of Physics ( <i>Magyar Tudományos Akadémia Wigner Fizikai Kutatóközpont</i> ) published an article on the differences between the mathematics of the human brain and artificial intelligence ( <i>Stimulus complexity shapes response correlations in primary visual cortex</i> ) on 7 February 2019. The study examines how the human brain evaluates visual information and what would be the parallel attributes of such visualisation to the operation and development of artificial intelligence systems. The researcher based most of the research outcomes on experiments he conducted on monkeys and mice. The study concludes humans and AI systems both compare and sort information based on some internal value concept. The study aims to provide | No | No | Mihály Bányai, Andreea Lazar, Liane Klein, Johanna Klón-Lipok, Marcell Stippinger, Wofl Singer, Gergő Orbán: Stimulus complexity shapes response correlations in primary visual cortex, PNAS February 12, 2019 116 (7) 2723-2732,<br><br><a href="https://www.pnas.org/content/116/7/2723">https://www.pnas.org/content/116/7/2723</a> |

|           |                 |                |   |     |                          |  |
|-----------|-----------------|----------------|---|-----|--------------------------|--|
|           |                 |                | for a new model on how to design and teach AI systems to mimic the logics of the human brain and to better serve humanity.  |     |                          |  |
| <b>HU</b> | DPA             | Other projects | <p>The Head of the National Authority for Data Protection and Information Freedom (<i>Nemzeti Adatvédelmi és Információszabadság Hatóság</i>) announced in an interview on 15 August 2019 that the Hungarian DPA requested guarantees and safeguards to ensure that Facebook is not going to forward the manuscripts of phone conversations Facebook users conducted using Facebook’s call services.</p> <p>The scandal that Facebook analysed calls without the consent of the users burst on 13 August 2019. While Facebook gave up this practice, the Hungarian authority wants assurance in writing that Facebook guarantees the data in question is not going to be handed over to unauthorised third parties.</p> | No  | Yes<br>(data protection) | <p>Jogászvilág (2019): The Authority requests guarantees from Facebook (<i>Garanciát kér a NAIH a Facebooktól</i>), 15 August 2019,<br/> <a href="https://jogaszvilag.hu/napi/garanciat-ker-a-facebooktol-a-naih/">https://jogaszvilag.hu/napi/garanciat-ker-a-facebooktol-a-naih/</a></p> |
| <b>HU</b> | Government /NGO | Other projects | The Artificial Intelligence Coalition ( <i>Mesterséges Intelligencia Koalíció</i> ) was brought to existence by the   | Yes | Yes<br>(data protection) | Artificial Intelligence Coalition: Newsletter, 21 January 2019,  |

|  |           |  |  |  |                              |   |
|--|-----------|--|--|--|------------------------------|---|
|  | /Business |  | <p>Minister of Technology and Innovation (<i>Innovációs és Technológiai Minisztérium</i>) in late 2018. The members of the Coalition include representatives of public bodies, NGOs and businesses. The Coalition's main agenda is to monitor the progress in the world of AI, to examine the legal aspects of AI, to propose legislative measures to the Minister and to inform the public on the latest developments and concerns related to AI. The Coalition published its first newsletter on 21 January 2019. The newsletter – among other mostly technical topics – includes the following topics: ethical concerns and AI, rights of the disabled and AI, AI in healthcare and data protection concerns. The newsletter contains brief information on the most recent trends related to AI in the world.</p> <p>The mission of the Ai Coalition is to provide for knowledge on artificial intelligence for the society and to propose legislation to the Government in relation to AI. On 19 October 2019, the Ministry of Innovation and Technology and the</p> |  | on, privacy, discrimination) | <a href="https://digitalisjoletprogram.hu/api/v1/companies/15/files/108480/download">https://digitalisjoletprogram.hu/api/v1/companies/15/files/108480/download</a> |
|--|-----------|--|--|--|------------------------------|---|

|  |  |  |   |  |  |  |
|--|--|--|---|--|--|--|
|  |  |  | Coalition announced the arrival of a new AI Action Plan that will establish a special research centre to conduct and finance AI related researches. The Action Plan also aims to establish a new agency to assist data controllers on how they can transfer data anonymously and in an appropriate manner. <sup>122</sup> |  |  |  |
|--|--|--|---|--|--|--|

\*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non-Profit
- Academia
- Domestic Courts
- Business
- Independent State Institution

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<sup>122</sup> Government Info (2019): The Artificial Intelligence Coalition is one year old (*Egy éves a mesterséges intelligencia koalíció*), 18 October 2019, available at: <https://www.kormany.hu/hu/innovacios-es-technologiai-miniszterium/infokommunikacioert-es-fogyasztovedelemert-felelos-allamtitkar/hirek/egy-eve-alakult-meg-a-mesterseges-intelligencia-koalicio>.

- Other

\*\* for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

### **3. Data retention**

The information provided on data retention in Hungary under <https://fra.europa.eu/en/theme/information-society-privacy-and-data-protection/data-retention> is still accurate. No new legal or policy measures and initiatives or case-law have been identified in relation to data retention.

## Chapter 6. Rights of the child

### 1. Procedural safeguards for children who are suspects in criminal proceedings

|                            |   |
|----------------------------|---|
| <b>Legislative changes</b> | <p>Directive 2016/800/EU on procedural safeguards for children was already taken into account when Hungary adopted the new Criminal Procedure Act (Act XC of 2017).<sup>123</sup> The Act entered into force on 1 July 2018 and contains an explicit reference to the Directive in Art. 878 point 33). Therefore, 2019, the year which marks the deadline for the transposition of the Directive, only brought minor amendments to the legal framework of criminal procedural safeguards in relation to children. These amendments, however, did not affect the Criminal Procedure.</p> <p>Act. LXVII of 2019 on promoting long-term shareholder participation and on the amendment of certain laws in relation to harmonisation duties (<i>2019. évi LXVII. a hosszú távú részvényesi szerepvállalás ösztönzéséről és egyes törvényes jogharmonizációs célú módosításáról</i>)<sup>124</sup> entered into force on 17 July 2019 and amended Act CCXL of 2013 on execution of criminal punishment, criminal measures, certain coercive measures and confinement in minor offence procedures (<i>2013. évi CCXL. törvény a büntetések, az intézkedések, egyes kényszerintézkedések és a szabálysértési elzárás végrehajtásáról</i>).<sup>125</sup> The amendments transposed Articles 6 (Assistance by a lawyer), 14 (Right to protection of privacy) and 18 (Right to legal aid) of the Directive. The amendment now calls for the obligation of the authorities involved in the execution of criminal sanctions to inform the young offenders in writing, in a simple and clear language, of his/her rights granted by the Directive. Also, the amendment makes it clear the legal guardian of the child offender is entitled to enter the detention/correctional facility in which a procedural action is ongoing against the child. Children offenders under the age of 16 have to be separated from older children offenders.</p> |
|----------------------------|---|

<sup>123</sup> Hungary, Act XC of 2017 on the criminal procedure (*2017. évi XC. törvény a büntetőeljárásról*), 1 July 2018, available at: <https://net.jogtar.hu/jogszabaly?docid=A1700090.TV>.

<sup>124</sup> Hungary, Act LXVII of 2019 on promoting long-term shareholder participation and on the amendment of certain laws in relation to harmonisation duties (*2019. évi LXVII. a hosszú távú részvényesi szerepvállalás ösztönzéséről és egyes törvényes jogharmonizációs célú módosításáról*), 17 July 2019, available at: <https://mkogy.jogtar.hu/jogszabaly?docid=A1900067.TV>.

<sup>125</sup> Hungary, Act CCXL of 2013 on execution of criminal punishment, criminal measures, certain coercive measures and confinement in minor offence procedures (*2013. évi CCXL. törvény a büntetések, az intézkedések, egyes kényszerintézkedések és a szabálysértési elzárás végrehajtásáról*), 1 January 2015, available at: <https://net.jogtar.hu/jogszabaly?docid=A1300240.TV>.

|                            |   |
|----------------------------|---|
|                            | <p>The Decree of the Minister of Interior no. 28/2019 on the amendment of certain ministerial decrees to be harmonised with Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (28/2019. (VII. 9.) BM rendelet egyes miniszteri rendeleteknek a büntetőeljárás során gyanúsított vagy vádlott gyermekek részére nyújtandó eljárási biztosítékokról szóló, 2016. május 11-i (EU) 2016/800 európai parlamenti és tanácsi irányelvnek való megfelelés érdekében szükséges módosításáról)<sup>126</sup> entered into force on 17 July 2019. The Decree amended the following laws:</p> <ul style="list-style-type: none"> <li>• Decree of the Minister of Interior no. 22/2012 on procedural rules related to minor offences:<sup>127</sup> child offenders who are apprehended in connection with the commission of minor offences threatened by confinement must be provided with information at the time of apprehension and in writing about the right to a legal guardian to be present during any procedural actions, the special treatment child offenders are entitled to throughout the minor offence procedure, the exemption of paying a fee of a public defender, the right to access to healthcare and medical examination, the right to file a complaint in case his/her right would be violated by the authorities.</li> <li>• Decree of the Minister of Interior no. 56/2014 on the operation of police detention facilities:<sup>128</sup> the amendment provides for detailed rules on separating children who are accused persons and are in police custody from adults detained in the same police facility. Also, the amendments stipulate the medical examination of the child is performed also in cases when he/she, his/her representative (legal guardian) or his/her defender asks for the examination.</li> </ul> |
| <b>Policy developments</b> | No policy developments could have been identified in 2019.  |

<sup>126</sup> Hungary, Decree of the Minister of Interior no. 28/2019 on the amendment of certain ministerial decrees to be harmonised with Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (28/2019. (VII. 9.) BM rendelet egyes miniszteri rendeleteknek a büntetőeljárás során gyanúsított vagy vádlott gyermekek részére nyújtandó eljárási biztosítékokról szóló, 2016. május 11-i (EU) 2016/800 európai parlamenti és tanácsi irányelvnek való megfelelés érdekében szükséges módosításáról), 17 July 2019, available at: [www.kozlonyok.hu/nkonline/index.php?menuindex=200&pageindex=kozltart&ev=2019&szam=120](http://www.kozlonyok.hu/nkonline/index.php?menuindex=200&pageindex=kozltart&ev=2019&szam=120).

<sup>127</sup> Hungary, Decree of the Minister of Interior no. 22/2012 on procedural rules related to minor offences (22/2012. (IV. 13.) BM rendelet a szabálysértésekről, a szabálysértési eljárásról és a szabálysértési nyilvántartási rendszerről szóló 2012. évi II. törvény végrehajtásával kapcsolatos rendelkezésekről, valamint ahhoz kapcsolódó egyes rendeletek módosításáról), 15 April 2012, available at: <https://net.jogtar.hu/jogszabaly?docid=a1200022.bm>.

<sup>128</sup> Hungary, Decree of the Minister of Interior no. 56/2014 on the operation of police detention facilities (56/2014. (XII. 5.) BM rendelet a rendőrségi fogdák rendjéről), 1 January 2015, available at: <https://net.jogtar.hu/jogszabaly?docid=a1400056.bm>.

|   |  |
|---|--|
| <p><b>Other measures or initiatives</b></p> | <p>In 2016, the Hungarian Helsinki Committee (<i>Magyar Helsinki Bizottság</i>) published a ‘toolkit’ to courts and law enforcement bodies in Hungarian and in English on the use of criminal procedural measures (e.g. pre-trial detention, sequestration, seizure, frisk and search) and their impact on the presumption of innocence.<sup>129</sup> The Toolkit is based on a comparative research the Committee conducted over the past years and included France, Croatia, Spain, Malta and Hungary. The research outcomes are discussed in the Toolkit in light of the EU criminal procedural safeguards’ framework including the safeguards provided in Directive 2018/800/EU. The Toolkit aims to explain good practices, highlight bad practices and explain the provisions of the EU Directives related to criminal procedural safeguards in order to prepare courts and law enforcement bodies for the correct application of the provisions of the Directives.</p> |
|---|--|

## 2. Legal and policy measures or initiatives developed about child internet safety

- a) In 2019, Hungary transposed the Audiovisual Media Services Directive through amending two umbrella acts by Act LXIII of 2019 on amending certain laws in relation to media services (2019. évi LXIII. törvény a médiaszolgáltatással kapcsolatos egys törvényes módosításáról)<sup>130</sup>; Act CIV 2010 on the freedom of the press and the fundamental rules on media content (2010. évi CIV. törvény a sajtószabadságról és a médiatartalmak alapvető szabályairól)<sup>131</sup> and Act CLXXXV of 2010 on media services and mass communication (2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról).<sup>132</sup> The amending legislation entered into force on 1 August 2019 and ensures the provisions of the Directive are duly reflected in Hungarian legislation. The amendment established detailed rules on the protection of minors and disabled persons, on the prohibition on public provocation to commit terrorism, on the principle of integrity of media services. Other than the new legislation that transposed AMVS Directive, there were no new legislative developments in relation to child internet safety in Hungary in 2019.
- b) The County Police Department of Győr-Moson-Sopron County (*Somogy Megyei Rendőr-főkapitányság*) was very active in organising lectures to both children and

<sup>129</sup> Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*) (2019): Law Enforcement Toolkit: the use of restraint and its impact on the presumption of innocence, available at: [www.helsinki.hu/wp-content/uploads/Presumption-of-innocence-toolkit-FINAL.pdf](http://www.helsinki.hu/wp-content/uploads/Presumption-of-innocence-toolkit-FINAL.pdf).

<sup>130</sup> Hungary, Act LXIII of 2019 on amending certain laws in relation to media services (2019. évi LXIII. törvény a médiaszolgáltatással kapcsolatos egys törvényes módosításáról), 1 August 2019, available at: <https://mkogy.jogtar.hu/jogszabaly?docid=A1900063.TV>.

<sup>131</sup> Hungary, Act CIV 2010 on the freedom of the press and the fundamental rules on media content (2010. évi CIV. törvény a sajtószabadságról és a médiatartalmak alapvető szabályairól), 1 January 2011, available at: <https://net.jogtar.hu/jogszabaly?docid=A1000104.TV>.

<sup>132</sup> Hungary, Act CLXXXV of 2010 on media services and mass communication (2010. évi CLXXXV. törvény a médiaszolgáltatásokról és a tömegkommunikációról), 1 January 2011, available at: <https://net.jogtar.hu/jogszabaly?docid=A1000185.TV>.

parents in Budapest (9 September 2019)<sup>133</sup> and in Sopron (11 July 2019)<sup>134</sup> on child internet safety. These public events aimed to teach parents on how to get more information on their children's internet use and on how to prevent them from becoming victims of cyberbullying and other internet-related offences. On both occasions, crime prevention experts of the Police explained how to communicate internet safety to children.

- c) Be Social, a Hungarian social media agency, conducted a survey titled 'Hungarian Teens on the Internet' (*Magyar Tinik a Neten*) in January 2019.<sup>135</sup> Be Social interviewed more than 9,000 Hungarian children under the age of 18 on their online activities and experiences. The survey proved that 78% of the Hungarian teens spend more than three hours per day on the internet. Almost every tenth teen faced data breach on the internet, typically when somebody hacked into their social media accounts. 44% of the interviewees stated they experienced some form of cyberbullying, and one-tenth of these children faced cyberbullying more than once.
- d) Funside School, a Hungarian civil society organisation that operates several study and training programmes mainly for children, announced a series of training sessions designed especially for parents on internet safety. The training sessions cover eight topics related to child internet safety (mentoring and monitoring 1-2., operation systems and smart phones, parent supervision, psychology of social media, tricks and hints on social media, phishing, cyberbullying) and aims to provide useful information to parents on when the child is ready to use a smart phone, when children are mature enough to use social media, how to identify cyberbullying, and creating a safe internet space at home for children. Funside School involves child psychologists and IT professionals to teach people how to become tech-positive parents.<sup>136</sup>
- e) ESET, a Hungarian internet security firm and HelloWorld, a civil society organisation that develops study materials and organises training on anything related to the use of digital technology, teamed up and offered summer camps (between June-August 2019) to around 200 children and teach them about internet safety. Participating children play a multi-day board game in the camps that teaches them about the various aspects of internet safety in a playful and cheerful way.<sup>137</sup>

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<sup>133</sup> Police (2019): Class on Internet Safety (*Előadás az internetbiztonság jegyében*), 9 September 2019, available at: [www.police.hu/hu/hirek-es-informaciok/bunmegelozes/internet-biztonsag/eloadas-az-internetbiztonsag-jegyeben](http://www.police.hu/hu/hirek-es-informaciok/bunmegelozes/internet-biztonsag/eloadas-az-internetbiztonsag-jegyeben).

<sup>134</sup> Police (2019): Children in the web of Internet (*Gyerekek a net hálójában*), 11 May 2019, available at: [www.police.hu/hu/hirek-es-informaciok/bunmegelozes/internet-biztonsag/gyerekek-a-net-halojaban](http://www.police.hu/hu/hirek-es-informaciok/bunmegelozes/internet-biztonsag/gyerekek-a-net-halojaban).

<sup>135</sup> Be Social (2019): Hungarian Teens on the Internet (*Magyar Tinik a Neten*), 13 February 2019, available at: [https://besocial.hu/magyar\\_tinik\\_a\\_neten/be\\_social\\_Magyar\\_Tinik\\_a\\_Neten\\_2019\\_02\\_13\\_grafikonok.pdf](https://besocial.hu/magyar_tinik_a_neten/be_social_Magyar_Tinik_a_Neten_2019_02_13_grafikonok.pdf).

<sup>136</sup> Funside School (2019): Internet safety training for parents (*Internetbiztonsági tréning szülőknek*), available at: [www.funside.hu/tanfolyamok/funside-school/internetbiztonsag-tanfolyam-szuloknek/](http://www.funside.hu/tanfolyamok/funside-school/internetbiztonsag-tanfolyam-szuloknek/).

<sup>137</sup> HelloWorldOnline (2019): Internet Safety Can Be Amusing! (*Az internetbiztonság játékos is lehet!*), available at: [www.helloworldonline.hu/esemenyek/az-internetbiztonsag-is-lehet-jatekos-265036.html](http://www.helloworldonline.hu/esemenyek/az-internetbiztonsag-is-lehet-jatekos-265036.html).

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

### A) Relevant legal provisions, amendments

After the transposition of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (Victims' Rights Directive)<sup>138</sup> in 2015,<sup>139</sup> in order to enhance victims' standing during the criminal procedure and to address serious concerns raised by NGOs,<sup>140</sup> such as PATENT Association<sup>141</sup> or NANE,<sup>142</sup> further amendments were inserted into **Act XC of 2017 on Criminal Procedures (2017. évi CX törvény a büntetőeljárásról)** (Act XC of 2017), which entered into force on 1 July 2018.<sup>143</sup> In connection with the entry into force of Act XC of 2017, **Government Decree 100/2018. (VI. 8.)** on the detailed regulation of the investigation and the preparatory procedure (*100/2018. (VI. 8.) Korm. Rendelet a nyomozás és az előkészítő eljárás részletes szabályairól*) was adopted

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<sup>138</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, pp. 57–73.

<sup>139</sup>The Victim's Rights Directive was mainly transposed by Hungary, Act CLI of 2015 on the modification of certain legislative acts in relation to the transposition of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (*2015. évi CLI. törvény a bűncselekmények áldozatainak jogaira, támogatására és védelmére vonatkozó minimumszabályok megállapításáról és a 2001/220/JB tanácsi kerethatározat felváltásáról szóló, 2012. október 25-i 2012/29/EU európai parlamenti és tanácsi irányelv átültetése érdekében szükséges egyes törvények módosításáról*), 6 October 2015, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=191619.312886](http://njt.hu/cgi_bin/njt_doc.cgi?docid=191619.312886). The following other legal acts also deal, for example, with the protection of victims of criminal acts: Act CXXXV of 2005 on the assistance provided to victims of criminal acts and on state mitigation of damages (*2005. évi CXXXV. törvény a bűncselekmények áldozatainak segítéséről és az állami kárenyhítésről*), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=95514.361232](http://njt.hu/cgi_bin/njt_doc.cgi?docid=95514.361232); **Government Decree 420/2017 (XII. 19) on the procedure related to the authorisation of support provided to victims of criminal acts and on the detailed rules on the provision and reimbursement of financial aid. (420/2017. (XII. 19.) Korm. rendelet a bűncselekmények áldozatainak nyújtott támogatások engedélyezése iránti eljárás, valamint a pénzügyi támogatás folyósításának és visszatérítésének részletes szabályairól)**, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=205954.348143](http://njt.hu/cgi_bin/njt_doc.cgi?docid=205954.348143); **Decree 32/2015 (XI. 2.) of the Ministry of Justice on the detailed requirements of the content of the information leaflet prepared by the victim support services (32/2015. (XI. 2.) IM rendelet az áldozatsegítő szolgálat által készített, az áldozatok jogairól szóló tájékoztató részletes tartalmi követelményeiről)**, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=191930.332668](http://njt.hu/cgi_bin/njt_doc.cgi?docid=191930.332668).

<sup>140</sup> NGOs, like NANE or Patent repeatedly maintained that the criminal proceedings even after the transposition failed to meet the specific needs of victims of sexual/domestic violence or child victims, especially as the relevant provisions are not or not adequately applied in practice. See also, FRA (2016), *Rights of crime victims to have access to justice*.

<sup>141</sup> PATENT Association (*Patent Egyesület*) is a Hungarian civil society organisation. It aims to take action against gender-based violence in the fields of law-making and law enforcement. It provides legal aid and psychological assistance to women victims of violence and those whose reproductive rights are limited. More information is available at: [www.patent.org.hu/en/about-us](http://www.patent.org.hu/en/about-us).

<sup>142</sup> NANE (*Nők a Nőkért Együtt az Erőszak Ellen Egyesület*) is a Hungarian civil society organisation with the goal of preventing violence against women and children. More information is available at: <http://nane.hu/egyesuletunk>.

<sup>143</sup> Hungary, Act XC of 2017 on Criminal Procedures (*2017. évi CX törvény a büntetőeljárásról*), 13 June 2017, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=202672.340269](http://njt.hu/cgi_bin/njt_doc.cgi?docid=202672.340269). Sections of this report on Act XC of 2017 were built on relevant sections of the 2018 FRA Annual Report, compiled by the same author.

(Government Decree 100/2018).<sup>144</sup> The **13/2018 (VI. 12.)** Decree of the Ministry of Justice on the establishment, operation and control of usage of a premises serving the conduct of procedural actions necessitating the participation of persons in special need (13/2018. (VI. 12.) *IM rendelet a különleges bánásmódot igénylő személy részvételét igénylő eljárási cselekmény elvégzésére szolgáló rendőrségi helyiség kialakításáról, működtetéséről és a használata ellenőrzéséről*) has also been adopted.<sup>145</sup> Many of the amendments introduced in 2018 e.g. into Act XC of 2017 aimed at enhancing the position of victims in criminal proceedings and dealt with the position of persons in need of special treatment who are involved in criminal proceedings (like victims of sexual violence, child witnesses and victims, etc.). For further information, please consult Franet National contribution to the FRA Fundamental Rights Report 2018 and 2019.

The overall impact of the above-mentioned amendments on victims' rights introduced in 2018 is still unclear on the position of victims in general. However, a recent report focusing on the position of victims of various forms of partner violence (sexual or domestic violence) (VICATIS-report), which was published in February 2019 on the implementation of the Victims' Rights Directive, maintains that the relevant guarantees and measures aiming to support and protect victims of sexual/domestic violence especially, have still not been duly implemented (see in more detail under section 1/b) and under 2/c).<sup>146</sup>

In 2019, **Government Decree 33/2019. (III. 5.)** on the modification of certain government decrees related to judicial services and the identification of victims of human trafficking (33/2019. (III. 5.) *Korm. rendelet az igazságügyi szolgáltatásokkal, valamint az emberkereskedelem áldozatainak azonosításával összefüggő egyes kormányrendeletek módosításáról*), (hereinafter: GD 33/2019 (III.5.)<sup>147</sup> modified Government Decree 362/2016 (XI.29) on certain tasks and competences related to judicial services (*Az igazságügyi szolgáltatásokkal kapcsolatos egyes feladat- és hatáskörökről szóló 362/2016. (XI. 29.) Korm.*

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<sup>144</sup> Government of Hungary, Government Decree 100/2018. (VI. 8.) on the detailed regulation of the investigation and the preparatory procedure (100/2018. (VI. 8.) *Korm. Rendelet a nyomozás és az előkészítő eljárás részletes szabályairól*), 8 June 2018, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=208779.355308](http://njt.hu/cgi_bin/njt_doc.cgi?docid=208779.355308). See also in detail: [Contribution to the Fundamental Rights Report 2019](#).

<sup>145</sup> Ministry of Justice, 13/2018 (VI. 12.) Decree of the Ministry of Justice on the establishment, operation and control of usage of a premises serving the conduct of procedural actions necessitating the participation of persons in special need (13/2018. (VI. 12.) *IM rendelet a különleges bánásmódot igénylő személy részvételét igénylő eljárási cselekmény elvégzésére szolgáló rendőrségi helyiség kialakításáról, működtetéséről és a használata ellenőrzéséről*), 12 June 2018, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=208824.355444](http://njt.hu/cgi_bin/njt_doc.cgi?docid=208824.355444).

<sup>146</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (VICATIS *Victim-centered approach to improving support services The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>147</sup> Government of Hungary, Government Decree 33/2019. (III. 5.) on the modification of certain government decrees related to judicial services and the identification of victims of human trafficking (33/2019. (III. 5.) *Korm. rendelet az igazságügyi szolgáltatásokkal, valamint az emberkereskedelem áldozatainak azonosításával összefüggő egyes kormányrendeletek módosításáról*), 5 March 2019 available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=213105.365417](http://njt.hu/cgi_bin/njt_doc.cgi?docid=213105.365417).

*rendelet*) (hereinafter GD 362/2016 (XI.29), and prescribed that it is the duty of the Minister of Justice to provide personalised information during the victim support procedure. In order to achieve this, the Minister “continuously operates the Victim Support line, which is available free of charge. Furthermore, the Minister ensures the possibility for victims of crimes and misdemeanour against property to have recourse to services related to the promotion of their interest” (Article 4 (3) a), GD 362/2016 (XI.29)).<sup>148</sup>

Under Article 6, 10 and 13 of **GD 362/2016 (XI.29)**, it is within the competence of the district offices to take a first instance decision over the entitlement to victim support services, while the county or municipal government offices act as second instance authorities. Victim support services are provided by the district, county or municipal government services. It is the district office, where the victim submitted his or her claim, which is competent to take decision over the entitlements; however, upon request, the procedure may be transferred to the district office of the place of residence of the victim. After the amendments introduced by GD 33/2019 (III.5.), Article 12 of GD 362/2016 (XI.29) states that, in the case of those who have the right to recourse to victim support services under Act CXXXV of 2005 on Crime Victim Support and State Compensation,<sup>149</sup> it is within the competence of the district office which established the entitlement of the person concerned to victim support services, to decide over the availability of legal aid in relation to the rectification of damages or the violation of the victim’s rights and interests caused by criminal acts. Upon request, the case must be transferred to the district office competent for the main place of residence or workplace of the victim.

In its response to public data request as to legislative measures planned or accomplished in 2019, the Ministry of Justice emphasised that Hungary “transposed the Victim Protection Directive within the prescribed deadline,” [by 16 November 2015] “the required national legislative provisions were adopted and entered into force. There are many provisions of the Victim Protection Directive whose practical implementation is continuously under way” but, in its response, the Ministry of Justice did not specify any measures taken or planned in this year. A public data request for further clarification is pending.<sup>150</sup>

## **B) Policy measures taken by the authorities**

In its response to a public data request, the Ministry of Human Resources maintained that measures have been taken to enhance the number of places available in crisis centres and secret shelters in 2019. While the number of available places in these institutions was 107 in 2016-2017, it rose to 135 in 2018 and to 292 in 2019. The Ministry of Human Resources

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<sup>148</sup> Government of Hungary, [Government Decree 362/2016 \(XI.29\) on certain tasks and competences related to judicial services](http://njt.hu/cgi_bin/njt_doc.cgi?docid=198899.367394), (*Az igazságügyi szolgáltatásokkal kapcsolatos egyes feladat- és hatáskörökről szóló 362/2016. (XI. 29.) Korm. rendelet*), 29 November 2016, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=198899.367394](http://njt.hu/cgi_bin/njt_doc.cgi?docid=198899.367394).

<sup>149</sup> Hungary, Act CXXXV of 2005 on Crime Victim Support and State Compensation (*2005. évi CXXXV. törvény a bűncselekmények áldozatainak segítéséről és az állami kárenyhítésről*), 6 December 2005, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=95514.361232](http://njt.hu/cgi_bin/njt_doc.cgi?docid=95514.361232).

<sup>150</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p.1.

maintained that victims may have direct access to secret shelters via the National Crisis and Information Telephone Service (*Országos Kríziskezelő és Információs Központ*). The half-way exit houses, which help the reintegration of the victims, are also part of the care system provided by the State. While in 2016, there were six half-way exit houses with four places in each house, by 2019 there are 19 half-way exit houses with four places in each, so the number of available places has tripled. The Ministry of Human Resources emphasised that according to their standpoint the continuous rise of the available places is clearly demonstrated by the above-mentioned data.<sup>151</sup>

The Ministry of Human Resources also mentioned that, on the basis of the EFOP-3.8.2.-16 and VEKOP-7.5.1.-16 programmes (2016), 30-hour training programmes became available on violence against children, child trafficking, child prostitution at several locations in the country for foster parents, employees of child-care institutions, child protection guardians. The participation of personnel whose duty is to prevent or take measures against such forms of abuse is compulsory. So far 821 persons have successfully finished the training course, and further applications for participating in the training course have been submitted by 1,280 persons. Within the framework of the “Improvement of Crisis Management Services” programme,<sup>152</sup> a training programme under the title of “Promotion of the cooperation of the members of the child protection signal system: the identification and handling of harms caused by partner violence and human trafficking” started in April 2019 and is provided by the Family Friendly Country Non-profit Ltd of Public Utility (*Családbarát Ország Nonprofit Közhasznú Kft.*).<sup>153</sup> According to plans, in two years’ time, five-thousand members of the child protection signal system are to participate in 200 local training programmes. Until August 2019, 1,550 people had participated in the programme.<sup>154</sup>

As of 2017, the Ministry of Human Resources has been providing assistance and support to programmes organised by the Hungarian Baptist Aid for children endangered by human trafficking and experts dealing with such children. The programmes take place in central, special children’s homes maintained by the Ministry of Human Resources in Kalocsa, Esztergom and Zalaegerszeg. These programmes continue in 2019 as well.<sup>155</sup>

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<sup>151</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019. p. 4.

<sup>152</sup> Available at: [https://www.kapcsoljegybol.hu/o/9\\_bemutakozas](https://www.kapcsoljegybol.hu/o/9_bemutakozas).

<sup>153</sup> Family Friendly Country Non-profit Ltd of Public Utility participates in the implementation of governmental tasks related to the development and implementation of family support and demographic policy measures, support of parents, reconciliation of work and family, monitoring of women’s rights and cooperation of generations. The Family Friendly Country Non-profit Ltd of Public Utility operates the National Crisis and Information Telephone Service. Homepage available at: <https://www.csbo.hu/>.

<sup>154</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019. p. 4-5.

<sup>155</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019. p. 5.

According to the Ministry of Human Resources, the Ministry cooperates in view of the victim protection, among others, with the following NGOs and churches: Catholic Caritas Hungarica (*Katolikus Caritas*), Menedék Association for Helping Migrants (*Menedék Migránsokat Segítő Egyesület*), Cordelia Foundation (*Cordelia Alapítvány*) but it did not mention Patent or NANE as its partners.<sup>156</sup>

In its response to a public data request, the National Police Headquarters (*Országos Rendőr-Főkapitányság*) indicated that in 2018 a joint mentor-training was organised by the National Police Headquarters' Criminal and Policing Directorate under the title of "*Practical measures in relation to partner violence and child-friendly justice*". The training was based on Order 2/2018 (I.25) of the National Police Headquarters on the implementation of police tasks related to the handling of domestic violence (*2/2018. (I. 25.) ORFK utasítás a hozzátartozók közötti erőszak kezelésével összefüggő rendőrségi feladatok végrehajtásáról*)<sup>157</sup> and focused on awareness raising and sensitisation of the police personnel, on how to establish contacts with vulnerable victims and on the official procedure to follow. In the related programmes aiming to train mentors, 245 and 62 persons participated in 2018 in April and in October-November, respectively. The programme covered the practice of preventive temporary barring, the tasks of the police in child-friendly justice, child abuse or the hearing of vulnerable persons involved in criminal proceedings. The programme involved the compilation of related guidelines.<sup>158</sup> Based on the aforementioned training programmes in 2018, in 2019, mentors provided training and information to new police personnel and to members of the police dealing with such cases. Additionally, a further mentor training programme took place in November 2019 with the participation of 140 persons. The National Police Headquarters also maintained that the Police's cooperation with NGOs and churches is continuous, and they regularly participate in training programmes offered by NGOs, though no such training programme was mentioned in relation to 2019.<sup>159</sup>

According to further information collected, the Police also held training sessions to promote the prevention of partner violence in September and October 2019 at the Győr-Moson-Sopron County Police Headquarters.<sup>160</sup>

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<sup>156</sup> Ministry of Human Resources (2019), Response to Public Data Request (*Válaszok az Európai Unió Alapvető Jogok Ügynöksége (FRA) 2020. Évi jelentésének elkészítéséhez feltett kérdésekre*), 47360-1/2019/MKFO, 06.11.2019. p. 6-8.

<sup>157</sup> Order 2/2018 (I.25) of the National Police Headquarters on the implementation of police tasks related to the handling of domestic violence (*2/2018. (I. 25.) ORFK utasítás a hozzátartozók közötti erőszak kezelésével összefüggő rendőrségi feladatok végrehajtásáról*), available at: <https://net.jogtar.hu/jogszabaly?docid=A18U0002.ORF&timeshift=20180228&xtreferer=00000001.txt#Ibj0idd0>.

<sup>158</sup> BAZ County Police Headquarters (2018), Practical questions related to the police execution of preventive temporary barring applied in partner violence (*Gyakorlati kérdések a kapcsolati erőszak során felmerülő ideiglenes megelőző távollátás rendőrségi végrehajtásával kapcsolatban.*).

<sup>159</sup> National Police Headquarters (2019), Response to public data request, 29000-197/83-24/2019 KOZA, 5 November 2019., p. 3-5.

<sup>160</sup> Police.hu (2019), *Előadás sorozat rendőröknek* (Lecture series for police officers) Police.hu (2019), 27 September 2019, Győr-Moson-Sopron County Police Headquarters, available at: <http://www.police.hu/hu/hirek-es-informaciok/bunmegelozes/csaladvedelem/eloadas-sorozat-rendorokne>; Police.hu (2019), *Képzés a kapcsolati*

In its response to public data request, the National Police Headquarters claimed that information leaflets aimed at assisting victims to find (legal) support and shelter are available on its main homepage.<sup>161</sup> These leaflets, however, are not displayed in a self-evident manner and are not contained in one single downloadable document. Information on victim support services and related NGOs, on available shelters and on barring in each county are available under the county sub-link connected to “Barring”, which is retrievable through the entry on “Administration”.<sup>162</sup>

In its response to the public data request, the Ministry of Justice maintained that it provided assistance in the framework of a three-day training in April and May 2019 to 41 persons of the personnel of the regional victim support services in order to assist their preparation for their related exam on administration. The training provided practical knowledge on “Victim support in practice”, covering specifically such target groups as victims of human trafficking, child victims and victims of domestic violence. Similarly, in cooperation with the Ministry of the Interior (*Belügyminisztérium*),<sup>163</sup> 75 people of the victim support services could participate in April 2019 in a three-day a training programme under the title of “Attitude-formation of victim support service providers.”<sup>164</sup> In September 2019, within the framework of a retraining programme, 93 members of the victim support services, could contribute to formulate answers to practical problems in the field of victim support together with the representatives of the Ministry of Justice through the discussion of case studies. The Ministry of Justice operates the Victim Support line, which is accessible 24 hours and – according to the Ministry of Justice – provides up-to-date, personalised information to victims. In the Ministry’s view, the growing number of persons turning to the Victim Support line shows that its role has greatly improved in the field of victim support services. The Ministry of Justice specified that it has a close cooperation with the Fehér Gyűrű Public Utility Association (*Fehér Gyűrű Közhasznú Egyesület*) and the European Regional Organisation (Európai Regionális Szervezet, ERGO). According to information provided by the Ministry of Justice, as of 1 January 2019, the operation of Victim Support centres and the Victim support line has been fulfilled by ERGO, while the Ministry exercises professional control and provides the necessary financial sources.<sup>165</sup>

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*erőszak megelőzésére* (Training for the prevention of partner violence), 31 October 2019, Győr-Moson-Sopron County Police Headquarters, available at: <http://www.police.hu/hu/hirek-es-informaciok/bunmegelozes/csaladvedelem/kepzes-a-kapcsolati-eroszak-megelozesere>.

<sup>161</sup> National Police Headquarters (2019), Response to public data request, 29000-197/83-24/2019 KOZA, 5 November 2019., p. 2.

<sup>162</sup> See e.g. as for Baranya County: *Áldozatsegítő, szociális, jogi segítségnyújtó és civil segítő szervezetek, valamint éjszakai szálláslehetőségek* (Social and legal victim support services and NGOs, and night shelters) available at: <http://www.police.hu/hu/ugyintezes/tavoltartas/baranya-megye>.

<sup>163</sup> Ministry of the Interior (Belügyminisztérium), homepage available at: <https://www.kormany.hu/hu/belugyminiszterium>.

<sup>164</sup> The training took place on the basis of the no. BMNBT/138/6/2018 support agreement between the two Ministries. Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p.4-5.

<sup>165</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p. 3-5.

### C) The implementation of the Victims' rights Directive in practice

A recent report (Vicatis-report), focusing on the victims of various forms of partner violence (sexual or domestic violence), published in February 2019 on the implementation of the Victims' Rights Directive maintains that the relevant guarantees and measures aiming for the support and protection of victims have still not been duly implemented. Major concerns have been raised in relation to female victims of sexual crimes, domestic violence or partner violence.<sup>166</sup> The Vicatis-report is the most recent NGO report, based on research, which is available on this topic:

In particular, the Vicatis-report stated that the basic infrastructure which could provide support to victims of domestic/partner violence is missing, the victims only reach certain institutions and competent authorities "accidentally", they do not receive adequate information and guidance even if they contact the police and make a complaint, as their complaint is often disregarded, or the crimes committed against them remain falsely qualified.<sup>167</sup> "In reality" – the report claims – "there is practically no efficiently operating victim support service where the victims could turn to. For most victims, there is no safe place in the system providing care."

<sup>168</sup>

Victims interviewed by the researchers for the Vicatis-report found state support services practically useless. Most victims interviewed during the research had no contacts whatsoever with state victim support services or, even if they had, they did not receive meaningful support (e.g. legal aid.). The National Crisis Information Center (*Országos Kríziskezelő és Információs Szolgálat*) may only provide help in life-threatening situations. While victims were satisfied with the services of NGOs, without any state support, their number and resources are minimal in view of the potentially 200,000 women living in violent partnerships. The number of places in maternity homes is not public – NGOs estimate that it could be around 200 – which also means that the vast majority of victims, even if they decide to leave their partners, have no chance whatsoever to get to these institutions and, thus, may have no chance to be protected from

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<sup>166</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: [The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary](#)*), available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>167</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: [The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary](#)*), p.4., p. 15, pp. 19-22, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>168</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: [The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary](#)*), p. 4, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

further threats, violence and harassment. State authorities are also unwilling to cooperate with NGOs.<sup>169</sup>

According to the report, victims' rights stipulated by the Victims' Rights Directive, (such as right to information, protection against threat and retaliation, right to avoid secondary victimisation, right to the presence of a support person, right to have their statements recorded (except in the case of children under 14)) only exist "on paper", only child victims have a chance to have their related rights protected despite the fact that most of the relevant legal provisions have been incorporated into the relevant legal acts, lately into Act XC of 2017.<sup>170</sup>

Many findings of the Vicatis - report have also been recently reinforced by a report compiled under the auspices of the National Institute of Criminology (*Országos Kriminológiai Intézet, OKRI*).<sup>171</sup> See in more detail the section below on "Violence against women."<sup>172</sup> Similarly, according to information provided by related NGOs, no major changes occurred in the meantime in view of the Vicatis-report, whose findings they consider still valid at present as well.<sup>173</sup>

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<sup>169</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 4, pp. 25-28, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>170</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 5, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>171</sup> Available at: <https://en.okri.hu/>.

<sup>172</sup> [Országos Kriminológiai Intézet, OKRI \(2018\)](#), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata. Országos Kriminológiai Intézet 2018/III.B/1.28. sz. Kutatási jelentés' (*The crime of domestic violence in judicial practice, National Institute of Criminology Research Report No. 2018/III.B/1.28.*). See also, Béda, A., Garai, R., (2019)'A kapcsolati erőszak elmúlt 6 éve – avagy egy nóvum hatása és joggyakorlata' (*The last 6 years of relationship violence – or the effect and the legal practice of a novelty*), *Ügyészégi szemle*, Vol IV, Nr. 2., 2019/02. pp. 6-25, available at: <http://ugyeszegiszemle.hu/hu/201902/ujtag>.

<sup>173</sup> Telephone interview, NANE, 14 November 2019.

#### D) Specific issues related to child abuse and domestic violence

On the basis of the results of comprehensive research projects, published in 2018<sup>174</sup>, a researcher of the National Institute of Criminology in an interview given in April 2019<sup>175</sup> emphasised the following main problems in relation criminal proceedings and final judgments rendered in cases of child endangerment (Article 208, Criminal Code):

a) 85% of the cases of child endangerment which are related to domestic violence, are the result of long years of abuse and tragedy, and in 35% of the cases it took years till there was any state intervention;

b) while in 61% of the cases, besides child endangerment, partner violence could also be established, the latter crime remains unqualified and unpunished. In 25% of the cases, the court described in its judgment that the convict also assaulted his partner, but partner violence was only established in 3% of these cases. Meanwhile, in cases in which child endangerment and partner violence are established together, more severe punishment would be applicable. Even after years of abuse, in cases of child endangerment, the sentence issued by the courts is often very mild: a fine, suspended prison sentence or reprimand, such punishments have no restraining force at all upon the perpetrators and this amounts to “the legalisation of these crimes”. Even fathers with a child abuse/domestic violence record may receive rights to remain in contact with the children after divorce or separation, which is enforced by fines upon the families in case of non-compliance, so children are forced to comply in order to avoid such retorsions. It may also happen, that due to these fines, victims are more severely punished than perpetrators receiving suspended prison sentences. (Formerly, it was also indicated by a related research<sup>176</sup> that the length of these procedures could extend from 3-8 years, which implies, on the one hand, that children grow up by the time the procedure ends and, on the other, that judges often refer to the “considerable lapse of time”, when they underscore the mild punishments applied.)

c) due to the dysfunctionality of the child protection system, the child protection measure aiming at the supervision of the family concerned in order to protect children (*védelembe vétel*, Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (1997.

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<sup>174</sup> Solt, Á. (2018), *Bírói ítélkezési gyakorlat a kiskorú veszélyeztetése tárgyában (A/III/9.) Kutatási zárójelentés*, (Practice of judicial sentencing in the topic of child endangerment (A/III/9.) Research final report) Országos Kriminológiai Intézet, 2018.; Balogh, A., 'Kiskorú veszélyeztetésének büntette a bírósági határozatok kritikai tükrében – különös tekintettel a fizikailag bántalmazott gyermekekre' (The crime of child endangerment in view of a critical examination of judicial sentences – with special emphasis on child abuse), *Ügyészek Lapja*, Vol. XXV, Nr. 2., 2018/3., pp. 5-29.

<sup>175</sup> Nlc.hu, *Eltörte a gyereke ujját, mert nem mosott fel – Miért nem védi meg senki az áldozatokat?*, (He broke the fingers of his child because he hadn't mopped the floor – Why doesn't anybody protect the victims?) 23 April 2019,, available at: <https://nlc.hu/ezvan/20190423/gyermekvedelem-kiskoru-veszelyeztetese-parkapcsolati-eroszak-kutatas-solt-agnes/>.

<sup>176</sup> Balogh, A., 'Kiskorú veszélyeztetésének büntette a bírósági határozatok kritikai tükrében – különös tekintettel a fizikailag bántalmazott gyermekekre' (The crime of child endangerment in view of a critical examination of judicial sentences – with special emphasis on child abuse), *Ügyészek Lapja*, Vol. XXV, Nr. 2., 2018/3., pp. 5-29.

*évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról*) (hereinafter: Act XXXI of 1997)<sup>177</sup> is not suitable to ensure its objectives. The supervisory measures taken by the authorities merely result in the conservation of child abuse and extreme neglect in many cases where it is apparent that the parents are unfit for parental care and their parental rights should have been revoked. It was also mentioned as a problem that, even if the parental rights of the perpetrator are revoked, the children may remain in the same household for years during criminal proceedings as the perpetrator<sup>178</sup> and become re-traumatised or further abused. Similarly, in many cases the children (cc. 50%), not the perpetrator (cc.24%), are lifted from the family.

d) there are major problems with the child protection signal system: general practitioner members of the child protection signal system almost never signal cases of child abuse, it is generally the hospital which reports the crime when it is so severe that the victims end up there. Teachers often demand explanation from the parents, which is followed by retaliation at home and children are taught not to make complaints or how to avoid such questioning and lie about their injuries. Social workers may advise the mother not to take action, pointing out that if official proceedings start, the children will be taken into foster care. Members of the child protection signal system have no trust in each other or in the system itself, they know that, after they make a signal, generally, nothing will happen, and it is also apparent that children taken into foster care or placed in special children's homes are also prone to abuse, prostitution, drug abuses, child trafficking, etc.

e) Only 35% of the cases start on the basis of a complaint submitted by members of the child protection signal system. Even if the police are notified of suspected cases of child abuse several times, the police do not launch criminal proceedings officially, the signal is merely repeatedly forwarded to the child protection authorities. Criminal proceedings are only initiated by the police in 12% of the cases. While child protection authorities are under the obligation to initiate the launch of criminal proceedings in cases of child abuse, they fail to do so: the child protection authorities only report 12% of the cases. In the majority of the cases (41%), criminal proceedings start after years of abuse, when either the victims/child victims submit an official complaint with the police or if relatives decide to take action. In the opinion of the expert interviewed, this implies that the “families and victims concerned are largely left on their own” and she emphasised: “when relatives cannot stand it that is really the end”.<sup>179</sup> Behind cases reported by victims/relatives, in 78% of the cases, there are years of severe abuse and violence. It is apparent from the developments preceding their intervention that e.g. the

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<sup>177</sup> Hungary, Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship (*1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról*), 8 May 1997, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=29687.370717#foot10](http://njt.hu/cgi_bin/njt_doc.cgi?docid=29687.370717#foot10).

<sup>178</sup> See also: Balogh, A., 'Kiskorú veszélyeztetésének büntette a bírósági határozatok kritikai tükrében – különös tekintettel a fizikailag bántalmazott gyermekekre' (The crime of child endangerment in view of a critical examination of judicial sentences – with special emphasis on child abuse), *Ügyészek Lapja*, Vol. XXV, Nr. 2., 2018/3., pp. 5-29.

<sup>179</sup> Nlc.hu (2019), *Eltörte a gyereke ujját, mert nem mosott fel – Miért nem védi meg senki az áldozatokat?* (He broke the fingers of his child because he hadn't mopped the floor – Why doesn't anybody protect the victims?), 23 April 2019,, available at: <https://nlc.hu/ezvan/20190423/gyermekvedelem-kiskoru-veszelyeztetese-parkapcsolati-eroszak-kutatas-solt-agnes/>.

police have been notified several times, even “visited the family, may have even ordered temporary barring, still, the occurrence of a very severe incident was necessary for any effective intervention and in many cases even that was not enough.”<sup>180</sup> According to the interviewed expert, if the child protection system was not dysfunctional, ¾ of the official complaints submitted with a view to starting criminal proceedings would come from them.

f) Practically all those who are condemned by a final judgement for child endangerment come from the lowest segment of society, many of them only finished primary school and are functionally illiterate. Only 4% of them had legal employment, 54% were alcoholic. This does not mean that child abuse or domestic violence is not present in other segments of society, it means that in those segments there is a very high level of latency. 60% of those who are condemned by a final judgment for child endangerment are men, while 40% of them are women. In the opinion of the interviewed expert, the high percentage of women indicates, among others, that – in many cases when the father terrorised the whole family, the mother is also held responsible for not being able to protect the children. The number of persons condemned varies greatly from county to county, which signs huge differences in the attitude of the police and other authorities in cases of child abuse or domestic violence.

In a recent interview, the above-mentioned researcher of the National Institute of Criminology maintained that she had the possibility to hold around 70 lectures, workshops, which could reach cc. 5,000 persons involved as professionals in cases related to domestic violence: prosecutors, judges, social workers, personnel of the child protection authority. During these workshops, lectures, she had the opportunity to discuss the findings of the related reports with the participants. These interactions, discussions with the participants completely reinforced the findings of the relevant reports: the participants related very similar experiences. The cooperation between various actors of the child protection signal system is largely dependent on the personal relationship of the actors concerned. The level of cooperation varies greatly at local level, with only a few districts showing better results in child protection. The conviction that domestic affairs may not be handled by criminal justice measures is still strong, which hinders the official initiation of such procedures or the reporting of the crimes by members of the child protection signal system. Social workers do not trust that criminal proceedings or that the lifting of children from the family would solve the problems (also in view of the deficiencies of the foster care system or children’s homes). They also feel uncomfortable about reporting these crimes as they see supporting these families as their main role.<sup>181</sup>

In her view, there is a need for a complete change in the attitude of the various actors of criminal proceedings, which still focus on bringing the perpetrator to justice, while they do not consider the protection of victims a major objective of criminal procedures or their duty. Unless there is a well-founded indication of sexual abuse, the accused is not placed in custody during the procedure and mostly lives in the same household as his victims. The authorities have an

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<sup>180</sup> Nlc.hu (2019), *Eltörte a gyereke ujját, mert nem mosott fel – Miért nem védi meg senki az áldozatokat?* (He broke the fingers of his child because he hadn’t mopped the floor – Why doesn’t anybody protect the victims?), 23 April 2019,, available at: <https://nlc.hu/ezvan/20190423/gyermekvedelem-kiskoru-veszelyeztetese-parkapcsolati-eroszak-kutatas-solt-agnes/>.

<sup>181</sup> Telephone interview with a researcher of the National Criminology Institute, 15 November 2019.

interest in not launching or conducting such procedures and investigations, and, at the same time, they also lack the necessary personnel. There is a huge fluctuation within the police force, moreover, when victims call for aid, the policemen arriving would most often lack the necessary expertise to handle such cases. There are only a few policemen who are authorised to order temporary preventive barring, who are difficult to reach. The Police are also reluctant to launch procedures as these cases are difficult to prove and would worsen their investigation efficiency. These cases would also appear in statistics and this is considered to be something to avoid as it may lead to the uncomfortable exposure of the magnitude of the problem. Prosecutors are also to prove indictment efficiency and often refuse to bring charges on the “risky” domestic violence and child abuse cases. The researcher also mentioned that judges and prosecutors consider, wholly disregarding the interests of the victims, the rendering of suspended imprisonment a “good compromise”, which neither the prosecution nor the defence would challenge, as it is “suitable” for closing the case at an early stage.<sup>182</sup>

## 2. Violence against women

**A) Ratification of the Istanbul Convention:** Though Hungary signed the Istanbul Convention on 14 March 2014, to date it has not been ratified and no related drafts have been discussed by the plenary session of the Parliament and such a discussion or the ratification of the Convention has not been envisaged this year either.<sup>183</sup>

The new Minister of Justice on her hearing in front of the relevant Parliamentary Committees stated the following: “on the level of actions the situation of women in Hungary is in the best state, a great number of family support systems are built up so that women should not have to choose between family and work. Otherwise, we stand up against violence in the family with all possible penal and other measures. This Istanbul Convention is a political hysteria, a political question, it should not be confounded with what happens otherwise in the country. I find this very important before we insist upon ratification, to have a look at first that every protection is given for women in Hungary through the system of victim support, through criminal justice, through social and family support measures.”<sup>184</sup>

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<sup>182</sup> Telephone interview with a researcher of the National Criminology Institute, 15 November 2019.

<sup>183</sup> Parliament of Hungary, H/2390 Az Isztambuli Egyezmény elfogadásáról (*On the ratification of the Istanbul Convention*), 15 December 2014, available at: <https://www.parlament.hu/irom40/02390/02390.pdf>; H/10286 Az Isztambuli Egyezmény elfogadásáról (*On the ratification of the Istanbul Convention*), 18 April 2016, available at: <https://www.parlament.hu/irom40/10286/10286.pdf>; H/10836 Az Isztambuli Egyezmény elfogadásáról (*On the ratification of the Istanbul Convention*), 25 May 2016, available at: <https://www.parlament.hu/irom40/10836/10836.pdf>; H/12907 az Isztambuli Egyezmény elfogadásáról (*On the ratification of the Istanbul Convention*), 15 November 2016, available at: <https://www.parlament.hu/irom40/12907/12907.pdf>; H/13863 Az Isztambuli Egyezmény elfogadásáról (*On the ratification of the Istanbul Convention*), 08 February 2017, available at: <https://www.parlament.hu/irom40/13863/13863.pdf>.

<sup>184</sup> Parliament of Hungary, Minutes of 4 July 2019 session of the Committee of Justice and the Committee of European Affairs of the Parliament, IUB-41/59-2/2019, EUB-41/15-5/2019 (*Jegyzőkönyv az Országgyűlés Igazságügyi bizottságának, valamint Európai ügyek bizottságának 2019. július 4-én megtartott együttes üléséről*), available at: <https://www.parlament.hu/documents/static/biz41/bizjvk41/IUB/1907041.pdf>, p. 22.

In response to the public data request, the Ministry of Justice maintained that it does not hold any data on the number of (potential) victims of domestic violence, partner violence or child abuse or on the number of those who died in consequence of such forms of violence. In response to questions related to the ratification of the Istanbul Convention, the Ministry of Justice stated the following:

- the Ministry of Justice “considers the content of the Istanbul Convention very important, however in order to recognise any agreement as obligatory for Hungary, it is important to assess the national legislative framework to avoid the presence of any element that could be not wholly in line with the international treaty. The Istanbul Convention formulates complex obligations to Parties as to the legislative acts and measures to be taken” and it is “necessary to identify the legislative tasks, governmental measures and budgetary sources, which takes a longer time.”<sup>185</sup>

- the Ministry of Justice also referred to the ongoing accession process of the European Union to the Istanbul Convention as a factor to be taken into account as “the competences of the EU and Member States are inter-related” and no coherent implementation of the Istanbul Convention may be envisaged without the EU becoming Party to the Convention. In their view, “the two processes cannot be separated from each other.”<sup>186</sup>

In relation to the response provided by the Ministry of Justice in 2019 on the ratification of the Istanbul Convention, note shall be taken that the monitoring of the Hungarian legal system allegedly took place under the auspices of a Working Group on Violence set up in 2013. After the Working Group ended its operation, on 14 February 2017, the Ministry of Justice published a draft on the promulgation of the Istanbul Convention. However, this was followed by widespread protests such as anti-feminist demonstrations,<sup>187</sup> or concerns raised by, among others, the Centre for Fundamental Rights (*Alapjogokért Központ*),<sup>188</sup> which criticised the planned ratification of the Istanbul Convention as they regarded it as a “gender-convention”,<sup>189</sup> while the Youth Christian Democrat Alliance (*Ifjúsági Kereszténydemokrata Szövetség*) - the youth organisation of the Christian Democratic People’s Party (*Kereszténydemokrata Néppárt*), a coalition member of the Government accused the Istanbul Convention of threatening with the abolition of the traditional family model and biological gender and also of disregarding

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<sup>185</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p. 1-2.

<sup>186</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p. 2.

<sup>187</sup> Hvg.hu (2017), “Így tüntettek az Isztambuli egyezmény ellen” (*This is how they protested against the Istanbul Convention*), 23 February 2017, available at: [http://hvg.hu/itthon/20170223\\_tuntettek\\_az\\_isztambuli\\_egyezmeny\\_ellen](http://hvg.hu/itthon/20170223_tuntettek_az_isztambuli_egyezmeny_ellen).

<sup>188</sup> The Centre for Fundamental Rights promotes views in line with the government’s standpoint and is regarded by stakeholders and experts alike as a pseudo-NGO created to support government policies in this field. See, for example, telephone interview with the HHC on 10 February 2017. The Centre for Fundamental Rights’ legal standing was deemed controversial as it became apparent that there is no registered civil organisation behind it but a company called “Rule of Law and Justice Ltd.” (*Jogállam és Igazság Kft*), Registration number: 01-09-174001, available at: <https://www.e-ceggyezek.hu/?cegadatlap/0109174001/TaroltCegkivonat>.

<sup>189</sup> Centre for Human Rights (Alapjogokért Központ) (2017), “Nem a genderegylezményre” (*No to the gender convention*), 16 May 2017, available at: <http://alapijogokert.hu/nem-a-genderegylezményre/>.

violence committed against men.<sup>190</sup> In 2017, in its response to request for public data the Ministry of Justice referred to the “vast majority of responses given by private individuals and NGOs” to the draft on the promulgation of the Istanbul Convention as a reason for postponing the ratification. (The said NGOs included e.g. the Civil Society Men’s Voice Civil Association (*Férfihang Civil Társaság*)<sup>191</sup> and Fathers for Justice Association (*Apák az Igazságért Egyesület*),<sup>192</sup> while only “the Hungarian Women’s Interest Group (*Magyar Női Érdekvégyesítő Szövetség*), the NANE, and the Patent Association argued for the ratification of the Convention.”<sup>193</sup> For further information, please also consult

Franet National contribution to the FRA Fundamental Rights Report 2018 and 2019.

Furthermore, the Ministry of Justice, in its response in relation to the ratification of the Istanbul Convention maintained that Hungary primarily puts emphasis on prevention, and took several measures to achieve this (improvement of the institutional system of care provided to victims of partner violence, to the training of experts, to campaigns, to research, to attitude forming). Up to December 2020, the Hungarian government plans to spend 3 billion HUF (8,966,388 EUR) on the improvement of the institutional system of care provided to victims of partner violence. The Ministry of Justice in this regard also made reference to the above-mentioned EFOP-1.2.4 Development of Crisis Management Services (*Kríziskezelő szolgáltatások fejlesztése*) programme, which would allocate 1,16 billion HUF (3,467,003 EUR) on the development of the National Crisis and Information Telephone Service and on the training of around 5,000 members of the child protection signal system. This is accompanied by the Safe shelter (*Biztos Menedék*) programme, which focuses on the complex development of the institutional system of care of victims of partner violence and human trafficking.<sup>194</sup>

On 28 November 2019, representatives of the governing FIDESZ-KDNP party in the European Parliament did not support the *European Parliament resolution of 28 November 2019 on the EU’s accession to the Istanbul Convention and other measures to combat gender-based violence*,<sup>195</sup> which calls on the Council to urgently conclude the EU ratification of the Istanbul Convention and also urges seven EU Member States, including Hungary, to do so without delay.

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<sup>190</sup> Kdnp.hu (2017), “IKSZ: Az isztambuli egyezmény elvetné a biológiai nemeket és a hagyományos családmódellet” (YCDA: *The Istanbul convention would throw away biological gender and the traditional family model*) 20 May 2017, available at: <https://kdnp.hu/news/iksz-az-isztambuli-egyezm%C3%A9ny-elvetn%C3%A9-biol%C3%B3giai-nemeket-%C3%A9s-hagyom%C3%A1nyos-csal%C3%A1dmodellt>.

<sup>191</sup> Men’s voice Civil Association argues that there are already several legislative acts and regulations which discriminate against men, and found unacceptable the promotion of new legal developments, like the ratification of the Istanbul Convention, which would further discriminate women in a positive way. The Association also considers males as the main victims of domestic violence. Homepage: <https://civiltarsasag.ferfihang.hu/temaik/>.

<sup>192</sup> The main goal of Fathers for Justice Association is to achieve the equality and equal representation of men, especially in view of matters related to the family, divorce, parental rights where they assume that the dominance of women is prevalent. Homepage: <https://www.apakazigazsagert.org/>.

<sup>193</sup> Ministry of Justice, Response to request for public data, Ministry of Justice, V/ID/142/2/2018. 13 11 2018., p. 2.

<sup>194</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p. 2.

<sup>195</sup> European Parliament resolution of 28 November 2019 on the EU’s accession to the Istanbul Convention and other measures to combat gender-based violence (2019/2855(RSP)), available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2019-0080\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2019-0080_EN.html).

In view of a recent tragedy, in which two children were killed by their father who was separated from the mother, and despite his former violent conduct (he attacked the mother with a hammer) was accorded by the court the right to see his children without supervision,<sup>196</sup> the speaker of the government, on the 19<sup>th</sup> December 2019, also reinforced that Hungary will not ratify the Istanbul Convention. The speaker of the government maintained that “Hungary already surpasses the requirements contained by the Istanbul Convention” and that the Convention “is only about the leftist-liberal endeavour to accept the concept of social gender, that is to say, that there are other genders than male and female”.<sup>197</sup>

**B)** According to data provided by the Hungarian Police Headquarters to a public data request, in 2016 386 criminal proceedings were launched due to partner violence, in 2017 this number was 391, in 2018 336, until September in 2019, the number of such procedures launched was 265. From 409 criminal proceedings launched due to partner violence from the second half of 2018 to September 2019, the number of criminal proceedings launched on the basis of complaint was 353, the number of cases launched ex officio was 45 and the number of procedures launched after a preparatory procedure was 11. The National Police Headquarters maintained that it does not collect data as to the number of cases requalified as partner violence in the later phase of the criminal proceedings. Referring to Act CXII of 2011 on the right to informational self-determination and freedom of information,<sup>198</sup> the National Police Headquarters maintained that the fulfilment of the public data request concerning the number of requalified cases in relation to 2016-2019 would constitute a disproportionate burden and a cost of 1,352,000 HUF (4,040 EUR), which – on the basis of Act CXII of 2011 – would fall upon the demander of the data.<sup>199</sup> In response to a further public data request, the Hungarian Police Headquarters maintained that out of the 265 criminal proceedings launched in 2019 in cases of partner violence, only nine had been requalified as such by the Prosecutor’s Office.<sup>200</sup> According to data provided by the National Police Headquarters, temporary preventive barring was ordered by the police in 1,427 cases in 2017 and 1,052 cases in 2018, while no data was available for 2019.<sup>201</sup> In view of the recent tragic events, the National Police Headquarters maintained that a new, professional protocol has been issued in order to help the call centres and activity-management centres to identify and qualify domestic violence cases, for instance, as to their urgency. Call centres are assisted by an interrogation protocol to be able to recognise domestic violence cases and to be able to forward adequately detailed data sheets to the activity-management centres. In cases demanding immediate intervention, the call centres, by

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<sup>196</sup> Hvg.hu (2019), *Győri gyerekgyilkosság: elmondta a bíróság, miért nem kérdőjelezték meg a szakértőt* (Child murder in Győr: the judge explained why the expert opinion was not questioned), 17 December 2019, available at: [https://hvg.hu/itthon/20191217\\_Gyori\\_gyerekgyilkossag\\_a\\_birosag\\_szerint\\_nem\\_kerdojelezhettek\\_meg\\_a\\_szakertot](https://hvg.hu/itthon/20191217_Gyori_gyerekgyilkossag_a_birosag_szerint_nem_kerdojelezhettek_meg_a_szakertot).

<sup>197</sup> Infostart.hu (2019), *Gulyás Gergely: Orbán Viktor megbetegedett* (Gergely gulyás: Viktor Orbán got ill), 19 December 2019, available at: <https://infostart.hu/belfold/2019/12/19/gulyas-gergely-orban-viktor-megbetegedett>.

<sup>198</sup> Act CXII of 2011 on the right to informational self-determination and freedom of information (2011. évi CXII törvény az információk önrendelkezési jogról és információszabadságról), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=139257.366978](http://njt.hu/cgi_bin/njt_doc.cgi?docid=139257.366978).

<sup>199</sup> National Police Headquarters (2019), Response to public data request 29000-197/83-24/2019 KOZA, 5 November 2019., p. 1-2.

<sup>200</sup> National Police Headquarters, Additional response to public data request, 12 December 2019.

<sup>201</sup> National Police Headquarters, Additional response to public data request, 28 November 2019., p.1.

switching to an SOS number, have the possibility to initiate and hold conference talks between the caller and the relevant state authorities (Police, ambulance service, emergency management authority). Similarly, the Police ordered to implement through, for instance, training on the methodological guidelines issued on the unified implementation of the rules concerning temporary preventive barring. As of November 2019, the Police and the National Crisis Information Centre launched a campaign “*Silence is the loudest scream*” to raise awareness of domestic violence. The National Police Headquarters maintained that background materials on victim protection are available in the activity-management centres, of which the police officers taking action in domestic violence/partner violence cases may receive information and guidance from the activity-management officer on duty. These materials are also available from mobile devices for the officers on the spot, should the need arise.<sup>202</sup>

Lately, a number of homicides related to long-standing, well-documented domestic and partner violence have been reported by the media<sup>203</sup> which received much public attention and sparked discussions on the topic. Most of these crimes have been committed after the victims decided to leave their violent partners. It has also been reported that the Police receives more than 10,000 notifications via its helpline per year.<sup>204</sup> Statistical data shows that on average one woman loses her life per week each year due to domestic and partner violence. In relation to these developments and data, NGOs, like NANE or Patent, drew attention to “systemic failure” and to the inadequacy of the measures taken by the state, and in particular by the Police, in preventing such crimes. The major problems identified by experts and NGOs, which NGOs regard still valid at present, cover the following:

- the Vicatis-report emphasised that Article 212/A of Act C of 2012 on the Criminal Code (*2012. évi C. törvény a Büntető Törvénykönyvről*) (hereinafter: Act C of 2012)<sup>205</sup> on partner violence does not cover certain cases of partner violence. It disregards certain types of violence (sexual violence), and it does not protect those women who had never lived in one household with the perpetrator unless a child has been born of the relationship;<sup>206</sup>
- while under Articles 81-82 of Act XC of 2017 the victims of sexual violence, disabled persons and children are automatically regarded as victims in need of special

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<sup>202</sup> National Police Headquarters, Additional response to public data request, 28 November 2019., p.1.

<sup>203</sup> In particular, two multiple murders committed in the 2nd District of Budapest and Andornaktálya within 2 weeks.

<sup>204</sup> Hirado.hu (2019), ‘Évente több mint tízezer családon belüli erőszakról kap jelzést a rendőrség’ (*The police receives more than ten thousand reports on domestic violence every year*), 04.09.2019, , available at: <https://www.hirado.hu/belfold/kekfeny/cikk/2019/09/03/evente-10-12-ezer-csaladon-beluli-eroszakrol-kap-jelzest-a-rendorseg#>.

<sup>205</sup> Hungary, Act C of 2012 on the Criminal Code, (*2012. évi C. törvény a Büntető Törvénykönyvről*) 13 July 2012, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=152383.370224](http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.370224).

<sup>206</sup> Sproncz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) ‘VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország’, (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims’ Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research. report: Hungary*), p. 6, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf)

treatment, victims of partner violence only qualify as such if the authorities – based on his or her personal circumstances – decide so,<sup>207</sup>

- the unwillingness of the Police to take measures (issue temporary preventive barring orders) or launch criminal proceedings after cases of domestic violence/partner violence are reported to them e.g. by the victims or family members. The Police frequently requires the victims to file a formal complaint in order to launch the criminal procedure in such cases of domestic/partner violence (with e.g. any form of physical violence involved) when, otherwise, after taking note of the crime, the officer would be under the obligation to launch a procedure *ex officio* (without complaint filed by the victim as in such cases the statement of the victim is irrelevant)<sup>208</sup> under Article 212/A (2) of Act C of 2012.<sup>209</sup> Victims are often made to wait long hours before they can submit their complaint, and it is often unclear for them whether the Police would take any actions or if they have launched the procedure. Victims complain about victim-blaming attitudes, the relativisation of the harm suffered by them, the Police demanding “more violence, blood”,<sup>210</sup> requiring a medical report from the victims on the injuries suffered,<sup>211</sup> before they take action or launch the criminal proceedings. The unwillingness of the Police to take seriously even especially severe cases of harassment, or life-threats expressed by the perpetrators, diminution of the severity and /or the relevance of injuries suffered by the victims, and the reluctance of the Police to take preventive measures, jeopardises the victims’ safety even if the criminal proceedings start later on;<sup>212</sup> The Police not taking action in less serious cases of

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<sup>207</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) ‘VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország’, (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims’ Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 9, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf)

<sup>208</sup> Garai, R. (2019), ‘A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata’ (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, pp. 31-33, pp. 38-39, available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf)

<sup>209</sup> Hungary, Act C of 2012 on the Criminal Code, (2012. évi C. törvény a Büntető Törvénykönyvről) 13 July 2012, available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=152383.370224](http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.370224)

<sup>210</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) ‘VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország’, (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims’ Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 4, pp. 15-17, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf)

<sup>211</sup> Garai, R. (2019), ‘A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata’ (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, p. 38. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf)

<sup>212</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) ‘VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország’, (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims’ Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 4, pp. 15-17, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf)

physical violence without the submission of an official complaint has been reinforced by a high-ranking police officer in June 2019.<sup>213</sup>

- Lack of help or information provided by the Police to victims to be able to have recourse to adequate victim support services/shelters.<sup>214</sup> Information on the criminal proceedings and victim support services, crisis centres, the possibility to request barring orders or find refuge in maternity shelters etc. is often not provided automatically by the Police, and even if it is provided, it remains inadequate, barely comprehensible for victims, not taking into consideration the traumatised state of mind of victims; there are no measures taken to follow-up whether the victims understood their rights and obligations during the procedure;<sup>215</sup>

- the false qualification of cases of domestic/partner violence as the crime of assault/inflicting bodily harm or vandalism. Even if the first Police reports/their statement of facts accurately record the factual elements required for a case to be qualified as domestic/partner violence under Article 212/A of Act C of 2012, cases are not qualified as such (the correction of false qualification may occur upon the call of prosecutors). There are vast differences as to the level of latency of domestic/partner violence cases in various counties of the country. The counties in which these crimes remain largely undetected/falsely qualified are: Baranya, Békés, Fejér, Nógrád, Vas, Heves, Veszprém, Zala, Komárom-Esztergom, while in the Municipality of Budapest, the counties of Szabolcs-Szatmár-Bereg, Borsod-Abaúj-Zemplén, Csongrád és Bács-Kiskun, the number of investigation launched in domestic/partner violence cases and their correct qualification are much higher.<sup>216</sup> In general, there are huge territorial differences in the country as to the implementation and scope of application of the relevant Article 212/A of Act C of 2012, in terms of the nature and efficiency of Police actions taken, measures taken by the prosecutors or jurisprudence;<sup>217</sup>

- lack of sufficient number of places in maternity shelters and the insufficient number of such shelters, lack of adequate institutional background. NGOs emphasise that,

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<sup>213</sup> Mihalicz, Cs. (2019), *Rendőri alezredes: nem igaz, hogy nem megyünk ki, amíg vér nem folyik* (Police Major: it is not true that we do not act unless blood is spilled), 20 June 2019, available at: <https://nlc.hu/ezvan/20190620/rendor-alezredes-parkapcsolati-eroszak-eljaras/>. (Original site removed, Webcache available at: <https://webcache.googleusercontent.com/search?q=cache:XJeoIUeO2NQJ:https://nlc.hu/ezvan/20190620/rendor-alezredes-parkapcsolati-eroszak-eljaras/+&cd=2&hl=de&ct=cln&gl=de>).

<sup>214</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, p. 37. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>215</sup> Sproncz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A. (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 4, p. 15, pp. 19-22, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>216</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, pp. 31, 38-39. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>217</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, pp. 36-37. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

according to international standards, around 1,000 available places in shelters would be necessary in Hungary;<sup>218</sup>

- reluctance of participants of an early warning system, such as teachers, doctors, social workers, etc., who would be under the obligation to report cases presumably or even undoubtedly involving domestic/partner violence, to the adequate authorities (child protection authorities, Police, etc.). Lack of efficient mechanisms to hold negligent participants of the early warning system responsible even in cases of extreme gravity;<sup>219</sup>

- lack of assistance provided for the victims to achieve separation/divorce and to be able to live in safety, lack of available protection provided to those who have decided to leave/are about to leave their violent partners;

- practical inefficiency of barring orders (cases of violent partners “reappearing” without hindrance in their former partners’ apartment or vicinity without facing any consequences);<sup>220</sup>

- complexity of the cases and criminal/civil procedures involved. Victims of partner violence may face alone various criminal and civil proceedings (e.g. divorce, parental rights, etc.), and proceedings in front of the child protection authorities. According to the Vicatis report, the lack of coordination between different authorities (civil/criminal courts, child protection authorities etc.) results in e.g. that the perpetrator, who often receive mild punishments, such as fines, suspended prison sentences or reprimand do not have their rights to maintain contacts with the children revoked,<sup>221</sup> may often have access to the traumatised children despite their unwillingness to meet their father, while the mother receives fines and faces sanctions if she hinders this. The harassment of the victim and her family is also not always stopped/prohibited by the authorities claiming that the “perpetrator only intends to see his children”. This – together with the lack of adequate assistance from the authorities and the state during the criminal proceedings, – leads to the trauma of being betrayed by the institutions.<sup>222</sup>

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<sup>218</sup> Telephone interview, NANE, 14 November 2019.

<sup>219</sup> Garai, R. (2019), ‘A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata’ (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, p. 37. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>220</sup> Garai, R. (2019), ‘A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata’ (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, pp. 42-43. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>221</sup> See also: Nlc.hu (2019), *Eltörte a gyereke ujját, mert nem mosott fel – Miért nem védi meg senki az áldozatokat?* ((He broke the fingers of his child because he hadn’t mopped the floor – Why doesn’t anybody protect the victims?), 23 April 2019,, available at: <https://nlc.hu/ezvan/20190423/gyermekvedelem-kiskoru-veszelyeztetese-parkapcsolati-eroszak-kutatas-solt-agnes/>.

<sup>222</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A, (2019) ‘VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország’, (*VICATIS Victim-centered approach to improving support services: The implementation of the Victims’ Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 13, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

## C) Specific issues related to criminal proceedings in cases of partner violence

### 1. Preventive temporary barring

In a joint statement major NGOs providing assistance to victims of partner violence, such as Patent and NANE, drew attention to the inefficiency of barring orders rendered by the Police or the courts. As they claim, the 72h barring order issued by the Police or the 60 day-long long court barring orders are not adequate, the victims would need more time to initiate legal proceedings and make arrangements as to their future life. They also noted that, in view of the 223,000 potential victims, the yearly 2,000-3,000 procedures related to barring orders are very few. In particular, fewer and fewer women asked for barring orders in the past few years. The number of temporary preventive barring orders dropped by 60% between 2014-2018 and was barely more than 1,000 in 2018. Implementation of barring orders is inadequate, there are no appropriate sanctions applied if it is breached. They claim that in the past few years in several cases the perpetrator committed violent assaults resulting in death under the effect of a barring order.<sup>223</sup>

A researcher of the National Criminology Institute also claimed that policemen arriving at the scene are incapable of giving proper information on barring orders and possibilities to find shelter, and are also unable to order preventive temporary barring, while issued barring orders remain uncontrolled and their breach unsanctioned, e.g. no criminal proceedings are initiated in response.<sup>224</sup>

In response to related accusations, the communication service of the National Police Headquarters<sup>225</sup> maintained that it is not true that the Police only takes action when “blood is spilled”, and, even if it causes disappointment to certain citizens who feel that police measures were inadequate, the police needs to follow laws in force.

In a recent case the Police at first refused to issue a temporary preventive barring order in the case of a woman brutally beaten by her partner, claiming that no such barring order may be issued as the woman was not living together with the perpetrator on the same address or in the same town. After interrogation, the perpetrator, who “showed remorse” was released. Following the exposure of the wounds suffered on social media and media coverages, the police initiated the issuance of a barring order.<sup>226</sup>

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<sup>223</sup> Hvg.hu (2019), Több mint 220 ezer nőt bántalmaz ma a partnere Magyarországon, 1 October 2019, available at: [https://hvg.hu/elet/20191001\\_Tobb\\_mint\\_220\\_ezer\\_not\\_bantalmaz\\_ma\\_a\\_partnere\\_Magyarorszagon?fbclid=IwAR3pr\\_47jr4PKO4U81HRzpg8zITivG66IXmoGIN6I-ZRCv3IP0kHgnTkb\\_o](https://hvg.hu/elet/20191001_Tobb_mint_220_ezer_not_bantalmaz_ma_a_partnere_Magyarorszagon?fbclid=IwAR3pr_47jr4PKO4U81HRzpg8zITivG66IXmoGIN6I-ZRCv3IP0kHgnTkb_o).

<sup>224</sup> Telephone interview with a researcher of the National Criminology Institute, 15 November 2019.

<sup>225</sup> Police.hu (2019), ... amíg vér nem folyik?, 26 August 2019, available at: <http://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/szervezeti-hirek/amig-ver-nem-folyik>.

<sup>226</sup> Német, T., Pintér, L., (2019) *Kezdeményezte a távollatást a rendőrség a brutálisan megvert nő ügyében*, 13 November 2019, [https://index.hu/belfold/2019/11/13/kezdemenyezte\\_a\\_tavoltartast\\_a\\_rendorseg\\_a\\_brutalisan\\_megvert\\_no\\_ugy\\_eben/](https://index.hu/belfold/2019/11/13/kezdemenyezte_a_tavoltartast_a_rendorseg_a_brutalisan_megvert_no_ugy_eben/).

## 2. The implementation of Article 212/A of Act C of 2012

### a) Victims' standing and rights in criminal proceedings related to partner violence

In its response to a public data request, the Ministry of Justice maintained that it does not hold data on the percentage of those victims of partner violence who receive the status of persons in need of special treatment in criminal proceedings,<sup>227</sup> while, under Article 81 of Act XC of 2017, this status is not automatically accorded to victims of partner violence.

The main findings of the Vicatis -report indicate that victims' rights stipulated by the Victims' Rights Directive, (such as right to information, protection against threat and retaliation, right to avoid secondary victimisation, right to the presence of a support person, right to have their statements recorded (except in the case of children under 14)) only exist "on paper", only child victims have a chance to have their related rights protected despite the fact that most of the relevant legal provisions have been incorporated into the relevant legal acts, lately into Act XC of 2017.<sup>228</sup> NGOs still consider the findings of the Vicatis-report valid at present and that the legislative amendments of 2017-2018, as they were largely not put in practice in an effective manner, did not result in meaningful changes in the position of victims of partner violence during criminal proceedings.<sup>229</sup> A researcher of the National Criminology Institute – on the basis of the assessment of the documentation of criminal proceedings in child abuse and partner violence cases - maintained, that the attitude of the Police during the interrogation of victims and the questions posed to the victims are insensitive and abusive.<sup>230</sup>

### b) Major developments in the jurisprudence in cases of partner violence

Expert opinion deemed the introduction of amendments to the scope of application of immunity of witnesses by Act XC of 2017 as a "milestone". Namely, Article 177 (4) of Act XC of 2017 makes it possible to use as evidence statements of the witness which were made either in the case concerned or in earlier cases even if the witness later refused to give testimony, which may often be the case in criminal proceedings related to partner/domestic violence and hindered the taking of evidence,<sup>231</sup> as these cases are difficult to prove and most of the evidence available could be statements of witnesses or the victims.

A summary of nation-wide research concerning the implementation of Article 212/A of Act C of 2012 on domestic/partner violence was published in February 2019. The report was based

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<sup>227</sup> Ministry of Justice, Response to public data request, V/146/2/2019, 7 November 2019, p. 1, 3.

<sup>228</sup> Spronz, J., Pap, E., Nógrádi, N., Mészáros, G., Vidák, A. (2019) 'VICATIS Áldozatközpontú megközelítés az áldozatsegítő szolgáltatások fejlesztéséért: Az Áldozatvédelmi Irányelv gyakorlati megvalósulása párkapcsolati erőszak áldozatainak tapasztalatai alapján. VICATIS kutatási beszámoló Magyarország', (VICATIS Victim-centered approach to improving support services: *The implementation of the Victims' Rights Directive based on the experiences of victims of domestic/partner violence. VICATIS research report: Hungary*), p. 5, available at: [https://patent.org.hu/dokumentumok/kozpolitika\\_kutatas/VICATIS\\_kutatasi\\_beszamolo\\_2019.pdf](https://patent.org.hu/dokumentumok/kozpolitika_kutatas/VICATIS_kutatasi_beszamolo_2019.pdf).

<sup>229</sup> Telephone interview, NANE, 14 November 2019.

<sup>230</sup> Telephone interview with a researcher of the National Criminology Institute, 15 November 2019.

<sup>231</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, p. 44. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

on the examination of the documentation of 651 cases between 1 January 2015 - 31 December 2017. The summary noted that the courts – following the 2017 decision on applicable jurisprudential principles<sup>232</sup> – interpret the requirement of “regularity” of the acts of violence committed by the perpetrator against the victim, which is an important factual element of the crime of partner violence, in such a way that two assaults are sufficient for the crime to fall under the scope of partner violence. The requirement of the “regularity of the acts of violence” is an important factual element of the crime of partner violence to distinguish it from such isolated acts of violence which would qualify as e.g. bodily harm.<sup>233</sup>

According to the summary, the courts are capable of seeing the cases in their complexity, and are also willing to accept indirect evidence (texts, messages, statements of witnesses instead of medical reports; acceptance of the unidentifiability of the exact time of time of assaults, etc.) in domestic/partner violence cases as the collection of primary evidence is mostly hindered. Mostly based on such indirect evidence, in 93% of the cases which reached the court, the courts condemned the accused and only in 4% of the cases were they acquitted despite the fact that, in the vast majority of the cases, the accused persons did not make a statement or denied the charges.<sup>234</sup>

However, the inter-relatedness of child abuse and domestic violence cases stay unnoticed. As it was mentioned above in relation to question 1, in 61% of the cases, besides child endangerment, partner violence could also be established, but it remains unqualified and unpunished. In 25% of the cases the court described in its judgment that the convict also assaulted his partner, but only in 3% of these cases was partner violence also established. Meanwhile, cases in which child endangerment and partner violence are established together more severe punishment would be applicable.<sup>235</sup>

According to findings of research conducted so far, no related Curia judgment was rendered in 2019. The related jurisprudence is still under research.

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<sup>232</sup> Kúria, Bfv. III. 1.644/2016., available at: <https://kuria-birosag.hu/hu/elvhat/172017-szamu-bunteto-elvi-hatarozat>.

<sup>233</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, p. 34. Available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>234</sup> Garai, R. (2019), 'A kapcsolati erőszak bűncselekményének jogalkalmazási gyakorlata' (*The legal practice in relation to relationship violence*), *Kriminológiai Tanulmányok*, Vol.56, pp. 39-40. available at: [https://www.okri.hu/images/stories/KT/KT56\\_2019/kt56\\_sec.pdf](https://www.okri.hu/images/stories/KT/KT56_2019/kt56_sec.pdf).

<sup>235</sup> Nlc.hu (2019), *Eltörte a gyereke ujját, mert nem mosott fel – Miért nem védi meg senki az áldozatokat?* ((He broke the fingers of his child because he hadn't mopped the floor – Why doesn't anybody protect the victims?)), 23 April 2019,, available at: <https://nlc.hu/ezvan/20190423/gyermekvedelem-kiskoru-veszelyeztetese-parkapcsolati-eroszak-kutatas-solt-agnes/>.

In June 2019, the Constitutional Court took the constitutional complaint of the so-called alkaline doctor in. The final judgment in the case was rendered by the Curia on 12 July 2018. The Curia sentenced the former Director of the Buda Hospital of the Hospitaller Order of Saint John of God to 11 years' imprisonment for bodily harm endangering life and other crimes, like illegal entry into private property, abuse of cash-substitute payment instruments, abuse of authentic official documents and violation of personal freedom. The convict maimed his former partner with alkaline in 2013, since he could not handle their break-up. The victim suffered permanent bodily harm when her former partner poured alkaline on her sex organs.<sup>236</sup> After several operations she still would be unable to lead a full sexual life. The perpetrator was also permanently banned from exercising his profession.<sup>237</sup> It should be noted that the accused was the nephew of the former Health care Minister of the first Orbán government (2000-2002), so the case received much publicity. The Prosecutor's Office refused to press charges in 2014 and ceased the investigation against the accused, which only continued after the victim filed a complaint. The accused was later allowed to deliver a statement defending himself on public TV in 2017. In November 2018, the convict submitted a constitutional complaint with the Constitutional Court,<sup>238</sup> claiming that, due to the amendment of XC of 2017 on criminal proceedings, he was bereft of effective judicial review in front of the Curia.<sup>239</sup> In his complaint he also asked for the suspension of his imprisonment, as it "causes him irreparable harm". The Constitutional Court was to render a decision in November 2019. Civil activists and organisations demonstrated against the release of the perpetrator on the eve of 4 November 2019. The Constitutional Court postponed its decision.

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<sup>236</sup> Curia (Kúria), 12 July 2018, Bhar.I. 690/2018.

<sup>237</sup> Hvg.hu (2018), "11 évet kapott jogerősen a lúgos orvos" (*Alkaline Doctor Convicted for 11 years*), 12 July 2018, available at: [http://hvg.hu/itthon/20180712\\_11\\_evet\\_kapott\\_jogerosen\\_a\\_lugos\\_orvos](http://hvg.hu/itthon/20180712_11_evet_kapott_jogerosen_a_lugos_orvos).

<sup>238</sup> Hvg.hu (2019) „Az Alkotmánybírósághoz fordult a lúgos támadó”, 31 October 2019, available at: [https://hvg.hu/itthon/20191031\\_Az\\_Alkotmanybirosaghoz\\_fordult\\_a\\_lugos\\_tamado](https://hvg.hu/itthon/20191031_Az_Alkotmanybirosaghoz_fordult_a_lugos_tamado).

<sup>239</sup> A Kúria Bhar.I.690/2018/12. számú ítélete elleni alkotmányjogi panasz (életveszélyt okozó testi sértés büntette), IV/01717/2018, 11/21/2018 Available at: <http://public.mkab.hu/dev/dontesek.nsf/0/80A5487FD80E7FF5C125837F005EDF46?OpenDocument>.

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

### 1.1. The framework of disability measures:

- National Disability Programme (*Országos Fogytékosságügyi Program*) 2015-2025: Long-term Government Strategy for the implementation of the general Goals, principles and obligations of the UN Convention on the Rights of Persons with Disabilities. Action Plans provide for the specific tasks of the National Disability Programme; the resources and the responsible minister are assigned in the action plans. The first Action Plan (2015-2018) included 80 government measures to promote equal and active participation in society and a report on the fulfilment of the Action Plan to the Government, and aimed to inform the National Disability Council (*Nemzeti Fogytékosságügyi Tanács*). The New Action Plan for 2019-2021 is currently under preparation. It is based on the recommendations of the Inter-ministerial Committee on Disability (*Fogytékosságügyi Tárcaközi Bizottság*), with the opinion of the National Council on Disability (*Országos Fogytékosságügyi Tanács*) and the Thematic Working Group on the Rights of Persons with Disabilities (*Fogytékossággal Élők Jogaiért Felelős Tematikus Munkacsoport*).

1.2. Support for advocacy organisations is provided as grants, which is ensured in the central budget and is therefore predictable for the stakeholders. The grant is provided to 13 national disability advocacy organisations and some NGOs. The amount of the support was HUF 1015.9 million (EUR 3,035,708<sup>240</sup>) in 2018 and HUF 1114.8 million (EUR 3,331,242) in 2019, which is a 5% and 10% increase respectively compared to the previous year.

### 1.3. Disability grants in the budget are addressing various objectives in 2019, such as:

- Assistance dog training for HUF 45.3 million (EUR 135,365)
- Grants for parents for HUF 29.6 million (EUR 88,451).
- Support for elementary rehabilitation services, i.e. the re-learning of basic activities by people who become visually impaired in adulthood. In 2019, HUF 20 million (EUR 59,764) is allocated for training rehabilitation teachers.
- Car Plus Programme: supporting the mobility of wheelchair users, with total funding of HUF 120 million (EUR 358,584).

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<sup>240</sup> The exchange rate of the Hungarian Central Bank (Magyar Nemzeti Bank, MNB) is 334,65 HUF = 1 EUR on 30 September 2019. <https://www.mnb.hu/arfolyamok> This exchange rate was applied in the following HUF/EUR calculations, too.

- Home assistance service (SWALLOW service extension) started in 2018 with a grant of HUF 100 million (EUR 334,650,000), in the form of a tender, with 100% ministry funding. Ministry of Human Capacities has involved new service providers and the programme continues to run.
- AUT2019 and CH2019 grants are supplementary operating aid instruments to non-governmental and lay organisations (NGOs), which provide residential care and supported accommodation to persons with disabilities. In 2019, there is HUF 190 million (EUR 567,757) funding provided.
- Support for programmes to promote equal opportunities for people with disabilities. In 2019, HUF 170.7 million (EUR 510,085) can be applied by organisations that bring together and/or assist people with disabilities and to launch new services.

Establishing and improving access to professional and public services for persons with disabilities (*A fogyatékos személyek számára nyújtott szakmai és közszolgáltatások hozzáférhetőségének kialakítása, fejlesztése*, EFOP-1.9.2-VEKOP-16 scheme) provides support to disabled persons living in their families with a grant amount of HUF 3,299,685,000 (EUR 9,860,108). The objective of the scheme is to develop public services adapted to the needs of people with disabilities by improving access to public services by developing a counselling network, providing information, developing new services, developing existing services, and developing tasks in family and child welfare centres. The target groups of the project are people with disabilities and/or their families, family members or relatives living with them. People with autism and their families are a particular target group of the grant.

The project aims to provide people with disabilities with quality services and to improve the efficiency of the currently available institutional system (education, employment, health, social, public services) by coordinating the activities of the sectors concerned, capacity building and establishing a monitoring, evaluation and feedback system for their professional activities.

Twenty-two (two in Budapest, 20 in the 20 Hungarian counties) Information and Coordination Points were established and opened on the base of the Family and Child Welfare Centres. The network hotspots are staffed by disability consultants whose training started on 10 April 2018, and will continue in 2019. Their job is to provide people with accurate and relevant information, in person, by phone and by email. Counsellors also work with professionals from family and child welfare centres. Local organisations, institutions and professionals will be introduced to the advisory service network.

The long-term goal of the project is to develop a nationwide system that effectively facilitates the accessibility of information and services for people with disabilities.

**Making websites and mobile applications of public sector organisations accessible** (Directive 2016/2102 of the European Parliament and the Council, Act LXXV of 2018 of Hungary). The purpose of the Directive and the transposing legislation is to enable users, in particular persons

with disabilities, to have easy access to public sector organisations' websites and mobile applications. Under this obligation, approximately 4,300 public sector organisations subject to the Act are required to make their websites and their mobile applications accessible, and to publish a statement about accessibility. Although the Act entered into force on 30 November 2018, its application will be binding on the organisations according to the following timetable:

- From 23 September 2019, for a website published after 23 September 2018;
- From 23 September 2020, for websites that existed before 23 September 2018;
- From 23 June 23 2021, for mobile applications.

EFOP-1.9.5: To date, 13 training packages have been developed under the project "Interdisciplinary Development of Early Childhood Intervention". The packages aim to develop a unified approach to professionals' education, expand their knowledge with up-to-date content, support their collaboration, and provide mental support for parents. The training package programme is ongoing. "Features of typical development, attention-grabbing signs of divergent child development at an early age: cross-sectoral training", a blended curriculum, is in development as the 3rd element of the training subproject. The 40 hours in-classroom training courses have begun. In July 2019, two groups started the course and the organisation and recruitment of the autumn groups started. The fourth element of the training sub-project is the "Domestic designing of a child development questionnaire for pedagogues dealing with children of toddler-age (0-2 years), and preschool age (3-7 years)". In the frame of this task, a small-sample validation study began in June 2019.

In the course on "Observation and status assessment in early childhood: Preparing for early identification of developmental disorders", two groups were already trained in July 2019, four in June 2019. The organisation of autumn groups is on-going.

The organisation and the recruitment of groups that will participate in the course on "Recognition and Support", that will be held about the early childhood intervention, has begun.

One group has already received training in July 2019 on the course on "Role of Pedagogical Counselling in Early Childhood Intervention". The organisation and recruitment of the groups for next season has started.

Given the strong interest raised by the course titled "Psychodiagnostic Toolkit for Planning Early Childhood Intervention to Support Parent-Child Relationships", a new group will be organised in the autumn of 2019.

#### 1.4. Women with disabilities

Because equal opportunities are guaranteed, women with disabilities are also covered by the following policies, which focus on achieving a harmonious balance between women and men in the areas of family, employment, social protection, participation in decision-making, dignity and integrity, and education:

- 2014: Establishment of a separate Women's Policy Unit within the State Secretariat for Family and Youth + Operation of a Thematic Working Group on Women's Rights within the Working Group on Human Rights;
- Protection Action Program;
- Part-time work opportunities;
- From 2012 onwards, child compensatory leave for both parents;
- Maternity leave (GYED) Extra;
- Making the crèche system more flexible;
- "Women 40" - grandmother's pension;
- EFOP 1.2.9-17 Tender on "Women in the Family and Workplace" aims to create Women-Centre Point. It focuses on female employees facing difficulties in balancing work and family life. It pays particular attention to those who are in a disadvantageous situation on the labour market (e.g. entry-level employees, parents raising young children or disabled child, employees with disabilities, single parents, carers for an adult relative). The number of applications submitted is 125 for HUF 24.85 billion (EUR 74,256,686), of which the Managing Authority supported 71 projects worth HUF 14.1 billion (EUR 42,133,572). All 71 projects have a grant agreement and are being implemented.<sup>241</sup>

#### 1.5. The transition from institutional to community-based services (Deinstitutionalisation)

The Ombudsperson and NGOs underlined the importance of moving away from the model of placement in large institutions into alternative forms of accommodation and care that support independent living and the opportunity of being truly included in society. On 2 April 2019 – following the investigation of a complaint by the Hungarian Civil Liberties Union (NGO) – the ombudsperson reported on the ill-treatment of residents in an institution for persons with disabilities in the village of Mozsgó.<sup>242</sup>

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241 List of supported projects:

[https://www.palyazat.gov.hu/tamogatott\\_projektkereso?forras=1420&op\\_type=op\\_nev&op\\_nev=1384&eupik\\_n ev=136800](https://www.palyazat.gov.hu/tamogatott_projektkereso?forras=1420&op_type=op_nev&op_nev=1384&eupik_n ev=136800).

<sup>242</sup> AZ ALAPVETŐ JOGOK BIZTOSÁNAK VIZSGÁLATA A MOZSGÓI SZOCIÁLIS INTÉZMÉNYBEN available at: <https://www.ajbh.hu/en/-/az-alapveto-jogok-biztosanak-vizsgalata-a-mozsgoi-szocialis-intezmenyben>.

Having said that, the Government claims that several actions have been taken towards the transition.

In the first half of 2019, the Deinstitutionalisation Concept was revised. Reasons for revising and developing a new concept are:

- the need for a more intense dialogue on disability issues,
- 21 November 2018: conclusion of a partnership agreement with six national advocacy organisations representing people with disabilities,

The new deinstitutionalisation concept is the appendix to the 1295/2019 Government decree (issued on 27 May)<sup>243</sup> on the long-term concept of the replacement of institutions providing care for people with disabilities. It emphasised the followings:

- the complexity of the service mix;
- increasing access to basic social services;
- the importance of access to employment, health services, education, culture, sport and other public services;
- the issue of deinstitutionalisation of special target groups with different needs (minors);
- the role of training, preparation, sensitisation;
- the needs of people with disabilities living in families;
- reinforcement of the operations of the National Deinstitutionalisation Coordination Council.

In addition to establishing large numbers of nursing care facilities, the new Concept also focuses on the care of people with disabilities in the family who can benefit from the emerging community-based services.

As of 1 January 2019, the Social Welfare Management and Social Provision Act (*A szociális igazgatásról és szociális ellátásokról szóló törvény*)<sup>244</sup> introduced the basic conditions for the provision of subsidised housing for minors, which defined the compulsory elements of the provision of services to children.

Deinstitutionalisation schemes for the 2014-2020 EU budget period:

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<sup>243</sup> A Kormány 1295/2019. (V. 27.) Korm. határozata a fogyatékossgal élő személyek számára ápolást-gondozást nyújtó szociális intézményi férőhelyek kiváltásáról szóló 2019–2036. évekre vonatkozó hosszú távú koncepcióról <http://www.tamogatoweb.hu/index.php/jogszabalyfigyelo/jogszabalyok-2019/345-1295-2019-v-27-korm-hatarozat>.

<sup>244</sup> 2019. január 1-i módosítás az 1993. évi III. törvényhez a szociális igazgatásról és szociális ellátásokról <https://net.jogtar.hu/jogszabaly?docid=99300003.TV&timeshift=20190101>.

- Purpose: Social inclusion of people with disabilities (including those with psychosocial disabilities and addicts)

- EFOP 1.9.1.-VEKOP-15-2016-00001 - Establishment of a National Deinstitutionalisation Coordination Council (*Szociális intézményi férőhely kiváltási szakmai koordinációs műhely kialakítása*), TÁRS project:<sup>245</sup> its task is to ensure the professional coordination of the deinstitutionalisation process. The methodological support of the process is ongoing until the end of this programming period. It provides professional training and professional support for participating institutions through mentoring services.<sup>246</sup>

- In January 2017, EFOP-2.2.2. "Supporting the transition from institutional to community-based services" (*Intézményi ellátásról a közösségi alapú szolgáltatásokra való áttérés fejlesztése – intézményi férőhely kiváltás*)<sup>247</sup> with a budget of HUF 21.8 billion (EUR 65,182,686) was announced. The project aims to fully replace institutional care provision for disabled people, psychiatric patients and addicts with community-based care services that reflect the needs of residents. Thirty applications for a total of 2600 places were submitted under this call. Currently, replacement projects amounting to HUF 19.3 billion (EUR 57,672,195) are being implemented within the framework of 23 grant agreements aimed at replacing large institutions with a capacity of more than 50 people. In 2018, the implementation of the projects started, and in many places, the commissioning of the buildings was approved. In 2019-2020 construction investments will be realised.

- VEKOP-6.3.2 - "Developing the transition from institutional to community-based services - replacement of institutional capacity" (*Intézményi ellátásról a közösségi alapú szolgáltatásokra való áttérés fejlesztése – intézményi férőhely kiváltás*):<sup>248</sup> the replacement of the capacity, i.e. the process of de-institutionalisation of a non-governmental institution in the Central Hungarian region with a subsidy amounting to nearly HUF 606 million (EUR 1,810,874) is carried out in Albertirsa.

EFOP-2.2.5-17 - "Improving the transition from institutional to community-based services - replacing institutional capacity by 2023" (*Intézményi ellátásról a közösségi alapú szolgáltatásokra való áttérés*)<sup>249</sup> - reopening in 2019 along the lines of the revised Concept

- The call focuses on the individual needs of people with disabilities and those with psychosocial disabilities by developing supported housing.

- By improving basic services, the scheme can contribute to the development of independent living not only for people with disabilities in the institutions but also for disabled persons living in families.

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<sup>245</sup> <http://fszk.hu/szakmai-tevekenysegek/intezmenyi-ferohely-kivaltas/tars-projekt-efop-1-9-1/>.

<sup>246</sup> Information about the results can be found on the project website: [www.fszk.hu](http://www.fszk.hu).

<sup>247</sup> <https://www.palyazat.gov.hu/efop-222-intzmnyi-elltsrl-a-kzssgi-alap-szolgltatsokra-val-ttrs-fejlesztse>.

<sup>248</sup> <https://www.palyazat.gov.hu/vekop-632-17-intzmnyi-elltsrl-a-kzssgi-alap-szolgltatsokra-val-ttrs-fejlesztse-intzmnyi-frhely-kivlts-1>.

<sup>249</sup> <https://www.palyazat.gov.hu/efop-225-17-intzmnyi-elltsrl-a-kzssgi-alap-szolgltatsokra-val-ttrs>.

## 1.6. Improving the situation of carers of their relatives

- As of January 1, 2019, the government has introduced a new form of support called Child Care at Home Allowance (GYOD). They base this provision on the right of children. Parents who raise one or more child incapable of self-sufficiency are eligible for GYOD. The allowance is increased to a uniform HUF 100,000 (EUR 334,650) per month, and those who care for more than one child receive one and a half times the childcare allowance. Those who care for an adult (such as an elderly relative, spouse) are entitled to a 15% increase. It is planned that by 2022 the childcare allowance (GYOD) will be adjusted to the amount of the minimum wage at that time.

- On 1 January 2019 a new measure entered into force providing for the healthcare coverage of persons who become ill, while caring for their relatives. The measures are defined in Act CXVII of 2018 amending certain social, child protection and other related laws. The law entered into force on 1 January 2019. However, major Hungarian human rights' NGOs do not participate in the work of the Round Table.

| Types of allowance                         |                          | Gross value<br>(HUF per month) | Number of recipients<br><br>April 2019 |
|--|--------------------------|--------------------------------|--|
| <b>Care allowance total</b>                |                          |                                | <b>32 380</b>                          |
| of which:                                  | Basic care allowance     | 37 490                         | 13 702                                 |
|  | Increased care allowance | 56 400                         | 10 331                                 |
|  | Premium care allowance   | 67 485                         | 8 347                                  |
| <b>Child Care at Home Allowance (GYOD)</b> |                          | <b>100 000</b>                 |  |

## 2. CRPD monitoring at national level

The structures described below were established before the reporting period and no key changes/developments relating to their structures can be reported upon.

### **The National Disability Council (*Nemzeti Fogytékosságügyi Tanács*)**

Government Decree of 1330/2013. (VI. 13.)<sup>250</sup> designated the National Disability Council to act as an advisory and coordinating body to the government. The Minister responsible for disability policy is the chair of the Council composed of representatives of professional and non-governmental disability organisations.

Previously, under Government Resolution 1065/2008 (X.14.),<sup>251</sup> the Government requested the National Disability Council to assist, protect and control the enforcement of the rights and obligations under the CRPD and the Optional Protocol thereto.

Since its inception, the Council has been cooperating with and monitoring the work of the governmental bodies on ongoing issues and regulators affecting the lives of people with disabilities.

### **The Interministerial Committee on Disability** (*Fogyatékoságügyi Tárcaközi Bizottság*)

To strengthen the intersectoral cooperation and to coordinate the activities of the ministries concerning persons with disabilities, the Hungarian Government issued Resolution 1432/2015. (VI. 30.)<sup>252</sup> that established the Interministerial Committee on Disability. The main tasks of the Committee are to facilitate the implementation of the National Disability Programme (*Nemzeti Fogyatékoságügyi Program*) and the Action Plan. It is also coordinating and reviewing the enforcement of the CRPD.

### **Working Group on Human Rights Human Rights Roundtable** (*Emberi Jogi Munkacsoport*)

In the government resolution of 1039/2012 on 22 February 2012<sup>253</sup>, the Government established the Working Group on Human Rights. The main tasks of the group are to monitor the implementation of human rights in Hungary and to consult with NGOs, professional organisations and constitutional bodies. It also promotes professional communication on human rights in Hungary through the operation of the Human Rights Roundtable. A Thematic Working (TW) Group on the Rights of Persons with Disabilities (*Fogyatékosággal Élők Jogaiért Felelős Tematikus Munkacsoport*) is also part of the Roundtable and has been functioning since 2013. The State Secretary for Social Affairs at the Ministry of Human Capacities (*Emberi Erőforrások Minisztériuma*) is the chair of the TW. The forum provides opportunities for dialogue with NGOs and for the convergence of governmental and civilian positions.<sup>254</sup>

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<sup>250</sup> Government Decree of 1330/2013. (VI. 13.).

<sup>251</sup> 1065/2008 (X.14.).

<sup>252</sup> 1432/2015. (VI. 30.).

<sup>253</sup> <https://net.jogtar.hu/jogszabaly?docid=A12H1039.KOR&txtreferer=00000001.TXT>

<sup>254</sup> Cf. <https://emberijogok.kormany.hu/fogyatekosaggal-elok-jogaiert-felelos-tematikus-munkacsoport>.

Table: Structures set up for the implementation and monitoring of the CRPD

| <b>EUMS</b> | <b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>                           | <b>Coordination mechanism – Article 33 (1)</b>  | <b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b> |
|-------------|---|---|--|
| <b>HU</b>   | Ministry of Human Capacities, Department for Disability Affairs ( <i>Emberi Erőforrások Minisztériuma, Fogytékosságügyi Főosztály</i> ) | National Disability Council ( <i>Országos Fogytékosságügyi Tanács</i> ); Interministerial Committee on Disability ( <i>Fogytékosságügyi Tárcaközi Bizottság</i> ) |  |

## Annex 1 – Promising Practices

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| Thematic area  | <p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include in-novative initiatives at local level) to combat discrimination on any one of the follow-ing grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics Where relevant, always highlight any relevance or reference to multiple discrimination.</p>   |
| Title (original language)  | 10 éves az országos egyenlőbárásmód-referenci hálózat  |
| Title (EN)   | The national equal treatment desk officers' network turns ten years old  |
| Organisation (original language)   | Egyenlő Bárásmód Hatóság   |
| Organisation (EN)  | Equal Treatment Authority  |
| Government / Civil society   | Government   |
| Funding body   | Equal Treatment Authority  |
| Reference (incl. url, where available)   | <a href="https://www.egyenlobanasmod.hu/100_ember">https://www.egyenlobanasmod.hu/100_ember</a>  |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | From 15 October to 15 November 2019  |
| Type of initiative   | Media campaign   |
| Main target group  | Primary target groups: potential victims of discrimination and those obliged to observe corresponding obligations; secondary target groups: local opinion leaders (public, civil and business actors, employers, service providers, academic field, local media); special target groups: young and young adult audiences   |
| Indicate level of implementation: Local/Regional/National  | National   |
| Brief description (max. 1000 chars)  | <p>The campaign aimed to popularise the equal treatment desk officers' network and encourage victims to report discrimination and rely on legal procedures. Specific communication goals included, in all counties, the strengthening of the presence of the equal treatment desk officers' network, image building; reaching those obliged to observe equal treatment norms with key messages on following these norms; and reaching victims of discrimination with messages on the availability of legal remedies.</p> <p>On the kick-off day of the campaign, October 15, a media communiqué was published detailing the goals and events of the campaign. Marketing tools used in the campaign: public display on bikes, train display, local print newspaper advertisements, Facebook, Messenger, Adwords, 12,000 billboards, presence in festivals and local events.</p> |
| Highlight any element of the actions that is transferable (max. 500 chars)                         | Access to local actors and building new partnerships   |
| Give reasons why you consider the practice as  | Sustainability is expected based on the lasting effects of awareness raising, the access to local networks and building new partnerships.  |

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| sustainable (as opposed to 'one off activities')  |  |
| Give reasons why you consider the practice as having concrete measurable impact   | While it might be hard to measure change in general compliance (in the case of entities obliged to observe equal treatment norms), the number of complaints in the field are always indicative on the trends of rights' awareness.   |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States?   | Involving local actors through local networks and extending partnerships to sustain and reinforce non-discrimination norms is a practice applicable in all Member States.  |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | Local activities were carried out by desk officers with the involvement of local civil and expert organisations, communication agencies, resident groups, including groups of people with protected attributes. Involvement took place in the events themselves as well as in the phase of assessment. |
| Explain, if applicable, how the practice provides for review and assessment.  | The impact of the campaign will be assessed, and the results will be used as a basis for the campaign planned for next year when the Authority turns 15 years old. Special emphasis was put on the success of cooperation.   |

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|               | <b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>  |
| Thematic area | Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances. |
|               | No promising practice has been identified for this thematic area.  |

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|  | <b>ROMA INTEGRATION</b>  |
| Thematic area                          | Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment. |
| Title (original language)              | A Jelenlét program kiterjesztése három településre (Prügy, Erk, Tarnazsadány)- EFOP-5.2.4-17-2017-00012  |
| Title (EN)                             | Expanding Presence programme to three settlements (Prügy, Erk, Tarnazsadány) - Human Resources Development Operational Programme-5.2.4-17-2017-00012   |
| Organisation (original language)       | Magyar Máltai Szeretetszolgálat (MMSZ)   |
| Organisation (EN)                      | The Hungarian Charity Service of the Order of Malta (Abbreviated as „MMSZ“ in Hungarian)   |
| Government / Civil society             | Government and civil society   |
| Funding body                           | European Union European Social Fund, The Hungarian Government (EFOP: Human Resources Development Operational Programme)  |
| Reference (incl. url, where available) | <a href="https://maltai.hu">https://maltai.hu</a> and for the Presence Programme: <a href="https://jelenlet.maltai.hu/">https://jelenlet.maltai.hu/</a>  |

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| Indicate the start date of the promising practice and the finishing date if it has ceased to exist  | Start: 2018-04-30 End: 2022-04-29  |
| Type of initiative  | Ensuring better access to affordable, sustainable and quality services, including health services and social services of general interest, social innovation   |
| Main target group   | Families with children living in underdeveloped settlements. The target group is mainly Roma people.   |
| Indicate level of implementation:<br>Local/Regional/National  | Local (Prügy, Erk, Tarnazsadány) and regional North Hungary (Heves County)   |
| Brief description (max. 1000 chars)   | The project currently aims to adapt the ongoing and proven Presence programme to three settlements, to Erk, Prügy and Tarnazsadány. The innovative element of the project comes from the fact that it provides services in a complex and flexible way, complementing the existing services and institutional system, coaching professionals, applying solutions beyond traditional tools, and adapting to local and individual circumstances. It is based on a method that is called a "diagnosis-based" system of supports tailored to local and individual needs. The main areas of intervention for the Presence programme are social support, public health, housing, employment, development of local economy, education and enhancing community well-being. The project activities are based on active, permanent social work in the target area and the fullest possible involvement of the target group in the work processes. |
| Highlight any element of the actions that is transferable (max. 500 chars)                          | The Presence programme has been running for more than 10 years in the most disadvantaged settlements or communities. The essence of the model is that the support is provided with the active involvement of the community in the given settlement and is targeted at children "from cradle to employment". The programme has a truly complex set of tools and is based on a thorough assessment of local needs and situation.   |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')      | The main areas of intervention (social support, public health, housing, employment, development of local economy, education and enhancing community well-being) should lead to long-term development and the volume of the programme as well as the scale and form of funding all suggest that the programme is designed to run long-term. The Roma catch-up strategy was launched in 300 settlements in Hungary on the basis of the Presence Programme of the MMSZ. For the first 30 settlements participating in the programme, 10 billion HUF (30,3 Million EUR) was immediately earmarked in this year's budget. In April 2019, Miklós Vecsei, vice-president of the MMSZ, was appointed as prime ministerial commissioner responsible for inclusion of the Roma. (Cf. Government decree no 1404/2019 on convergence settlements issued at July 5, 2019.)  |
| Give reasons why you consider the practice as having concrete measurable impact                     | The project developer is committed to setting up a single client-level tracking and documentation system that can measure and monitor the outcomes. With this system, applications are being developed which are capable of recording certain data during fieldwork. It records the personal data of clients, their socio-demographic characteristics, the date and status of their entry into the programme, the range of services and benefits they receive, so it is constantly able to track individual life paths and statistical relationships.  |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | The practice is transferrable to other MSs where Roma or a severely disadvantaged population lives in large numbers and in segregated areas as the programme addresses the main areas of concern (social support, public health, housing, employment, development of local economy, education and enhancing community well-being) for these groups. The Presence programme has been operating in the most underdeveloped settlements in the country for years. The Hungarian Government plans to expand its coverage to 300 settlements. The fund provided is expected to allow for a  |

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|   | wide sharing of experiences and development methods, both among domestic and international social policy actors.  |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | Beneficiaries' needs and demands are expressed through a quantitative survey, as MMSZ staff prepares a survey and complex development plan for both the settlement and the individual families. They create so-called Presence Points in the three targeted settlements. These facilities function as a community space, as a social assistance point, and provide some missing services like community bathing or administrative assistance. The Points also organise programmes on a regular and ad hoc basis by involving local stakeholders and beneficiaries. They organise community-building and awareness-raising events for children and their families (e.g. family day). Also, they hold training courses designed to enhance parental skills and to develop their family roles. They assess the state of human public services, gaps, and increase the efficiency of social systems by training professionals and expanding resources for supports. |
| Explain, if applicable, how the practice provides for review and assessment.  | The project developer committed to set up a single client-level tracking and documentation system that can measure and monitor the outcomes. With this system, they develop applications which are capable of recording certain data during fieldwork. Fieldworkers record the personal data of clients, their socio-demographic characteristics, the date and status of their entry into the programme, the range of services and benefits they receive. Their aim is constant tracking of individual life paths and analyses of statistical relationships.  |

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| Thematic area  | <b>Asylum, visas, migration borders and integration</b><br>Please provide a promising practice on the support provided to unaccompanied children when reaching majority.  |
| Title or short description of promising practice in original language and in English                   | NGOk együttműködése a gyermekvédelmi gyámokkal és más tényezőkkel<br><br>Cooperation of NGOs with the child protection guardians and other stakeholders.  |
| Organisation (Government / Civil society) in charge of promising practise (original language/English ) | Magyar Helsinki Bizottság, Menedék -Migránsokat Segítő Egyesület, Fővárosi Gyermekvédelmi Központ és Területi Gyermekvédelmi Szakszolgálat, SOS Gyermekfalvak Magyarország<br><br>Hungarian Helsinki Committee, Menedék Association for migrants, Child protection guardian services of Budapest (TEGYESZ), SOS Children's village  |
| Funding body   | It does not require substantial funding and is based on the close, intensive cooperation of the NGOs concerned and child protection guardians/institutions  |
| Reference (incl. url, where available)   | -   |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist     | 2016 – on-going   |
| Main target group  | Unaccompanied children  |
| (around 1000 characters)   | As of 2016, the HHC entered into intensive cooperation with the child protection guardian services of Budapest (TEGYESZ), after the latter had indicated that they would be willing to participate in a series of trainings on migration and asylum. In 2016, the HHC held three training and information sessions, which aimed at:<br>•identifying the main challenges for guardians,<br>•clarifying the roles and responsibilities of different stakeholders, |

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|   | <ul style="list-style-type: none"> <li>•providing opportunities and facilitating communication between the Károlyi István Children’s Home (Károlyi István Gyermekközpont) as a specific child protection institution in Fót, maintained by the Directorate-General of Social Affairs and Child Protection (Szociális és Gyermekvédelmi Főfelügyelőség), which is under the authority of the Ministry of Human Resources (Emberi Erőforrások Minisztériuma) and the guardians,</li> <li>•giving introductory seminars into asylum law, its basic notions and concepts,</li> <li>•improving collaboration between the two organisations and building cooperation.”<sup>255</sup></li> </ul> <p>These training sessions were followed by “a knowledge transfer event” with the help of Nidos Foundation, the Dutch guardianship institution for unaccompanied children refugees, asylum seekers and undocumented migrants<sup>256</sup>. Not only the HHC and child protection guardians attended the event, but also the temporary head of the Children’s Home in Fót, a social worker from the Budapest Social Services specialised in childcare, an educator from Menedék Association for Migrants working in Fót. A similar event was organised with the participation of Cordelia Foundation (Cordelia Alapítvány). Subsequently, the HHC initiated regular roundtable meetings with the participation of staff of the Children’s Home, the guardians, UNHCR Hungary, the Cordelia Foundation, SOS Children’s Village and Menedék Association. The regular roundtable meetings took place in every month from December 2016 until the end of 2017. There have been fewer regular meetings in 2018-2019 too.<sup>257</sup> According to the HHC the meetings focused on “both general policy issues and on discussing individual cases and aim to introduce a multidisciplinary best interest determination process, which is currently lacking from the legal framework” and provided “a much needed opportunity for professionals in the field for cooperation and an exchange of experiences to make their work more effective”.<sup>258</sup></p> |
| Indicate level of implementation:<br>Local/Regional/National                      | Regional   |
| Indicate success factors – why has the practice effectively promoted integration? | <p>The roundtable discussions, among others promoted unaccompanied children’s integration and enhanced their protection</p> <ul style="list-style-type: none"> <li>- by establishing stable contacts amongst stakeholders</li> <li>- by organising joint training sessions for child protection guardians</li> <li>- by holding regular meetings/roundtable discussions to discuss and evaluate individual cases, to facilitate the work of child protection guardians and to review issues related to general policies</li> </ul> <p>The close cooperation of NGOs providing legal aid /assistance in integration and child protection guardians significantly enhanced the chances of unaccompanied children to receive and be able to keep protection statuses, have access to child protection services, and thus promoted their integration. The training sessions and the discussions of the difficulties of individual cases assist the stakeholders in carrying out their related tasks on a higher level.</p>   |

<sup>255</sup> Hungarian Helsinki Committee (2017), ‘Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary’, 17 May 2017 available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf> , pp. 19-20.

<sup>256</sup> ENGI, Netherlands, More information available at: <https://engi.eu/projects/reception-and-living-in-families/the-netherlands/>.

<sup>257</sup> Information provided by the Hungarian Helsinki Committee via mail, 24.09.2019.

<sup>258</sup> Hungarian Helsinki Committee (2017), ‘Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary’, 17 May 2017, available at: <https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf> , pp. 19-20.

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| If the initial funding of the initiative ended, how has the initiative been continued/followed-up?  | voluntary basis, no specific funding provided<br>The initiative is still on-going.  |
| Explain, if applicable, how the practice is being reviewed and assessed.  | The whole initiative is based on the participation and contribution of the stakeholders, their regular roundtable-meetings provide an opportunity to constantly evaluate and develop the project but there is no “institutionalised” process of evaluation            |
| Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?           | It applies to both asylum seekers and protection status holders and also supports the transition from one to the other.   |
| Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided? | Legal aid provided by Hungarian Helsinki Committee to unaccompanied children and persons in need of protection also when they turn 18 with the cooperation of the guardians in related procedures (review of protection status, nationalisation, etc.) <sup>259</sup> |

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| Thematic area  | <b>INFORMATION SOCIETY, DATA PROTECTION</b><br>Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter  |
| Title (original language)  | GDPR 2019. a gyakorlat oldaláról – értékes válaszok első kézből  |
| Title (EN)   | GDPR 2019 from a practical aspect – valuable first-hand answers  |
| Organisation (original language)   | Unlimited Solution Bt.   |
| Organisation (EN)  | Unlimited Solution LLP   |
| Government / Civil society   | Civil society  |
| Funding body   | Unlimited Solution Bt. and the participants of the conference (registration fee was charged)   |
| Reference (incl. url, where available)   | <a href="https://adatvedelmi.hu/project/gdpr-2019/">https://adatvedelmi.hu/project/gdpr-2019/</a>  |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 11-12 February 2019  |
| Type of initiative   | Conference   |
| Main target group  | Businesses and NGOs  |
| Indicate level of implementation:<br>Local/Regional/National                                       | National   |
| Brief description (max. 1000 chars)  | Unlimited Solution Bt. organised a two-day conference on the experiences of the first six months of the application of the GDPR in Hungary. Among the speakers, the head of the National Authority for Data Protection and Information Freedom, university professors, judges and attorneys were listed. The purpose of the conference was to let those drafting internal data protection rules at civil society organisations and |

<sup>259</sup> Information provided by HHC, telephone interview, 04.09.2019.

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|   | businesses, and data protection officers at such organisations know about the common problems and difficulties in applying the GDPR. The speakers shared their experiences from various angles including the authority, the judicial and attorney perspectives to better describe how the participating organisations can develop a GDPR policy in their everyday activities.   |
| Highlight any element of the actions that is transferable (max. 500 chars)  | Contrary to the typical data protection conferences, organisers put a significant emphasis on interaction between the speakers and participants. Therefore, they strictly limited the number of participants and allocated time for discussions and Q&A.  |
| Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)  | Unlimited Solution Bt. operates the website adatvedelmi.hu and organises seminars, training and conferences on a regular basis focusing on data protection. After the February conference, they decided to change their concept and limit the number of participants at each conference and provide for time and opportunity for the participants to ask questions and get answers from those with experience in the area of data protection.   |
| Give reasons why you consider the practice as having concrete measurable impact   | Unlimited Solution Bt. reports their conferences attract more and more participants. While measuring the concrete impact of one conference is impossible, the organisers report several participants in the past informed them about changing their internal rules of data protection based on what they heard and learnt during the conference.  |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States?   | The conference built on the practical implementation of the GDPR rather than explaining and interpreting the provisions from a purely theoretical perspective. Topics included the following: how to draft in-house data protection regulations, documentation of claims coming from data subjects, closed circuit television (hereinafter: CCTV) problems, data breach incidents and handling them, how to conduct a data protection impact assessment. These topics required the involvement of practitioners at the conference. It is understood that the identification and subsequent engagement of stakeholders with similar profiles should not be difficult in other Member States of the EU. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | Among the speakers, there were representatives of the National Authority for Data Protection and Information Freedom, judges and attorneys who deal with data protection issues in their everyday activities. The topics for discussion were set up with the involvement of the speakers.   |
| Explain, if applicable, how the practice provides for review and assessment.  | Participants had to fill out a survey after the conference. Organisers promised to use the feedback when setting up the thematics for future seminars and conferences.  |

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| Thematic area   | <b>RIGHTS OF THE CHILD</b><br>Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.   |
| Title (original language)   | HelloWorld Nyári Táborok   |
| Title (EN)  | HelloWorld Summer Camps  |
| Organisation (original language)  | HelloWorld and ESET  |
| Organisation (EN)   | HelloWorld and ESET  |
| Government / Civil society  | Civil society  |
| Funding body  | ESET   |
| Reference (incl. url, where available)  | <a href="https://www.helloworldonline.hu/esemenyek/az-internetbiztonsag-is-lehet-jatekos-265036.html">https://www.helloworldonline.hu/esemenyek/az-internetbiztonsag-is-lehet-jatekos-265036.html</a>  |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist  | June 2019 – August 2019  |
| Type of initiative  | Providing information to children on child internet safety in a fun and entertaining way   |
| Main target group   | Children between the age of 10-18  |
| Indicate level of implementation: Local/Regional/National   | National   |
| Brief description (max. 1000 chars)   | HelloWorld, a civil society organisation that develops study materials and organises programmes related to the use of digital technology, teamed up with ESET, a Hungarian cyber security firm to organise summer camps to children between the age of 10-18. These camps teach internet safety to children in a playful, entertaining way through a multi-day board game and role plays (e.g. maze fight against viruses, card game against virtual hackers). Through these games, the organisers teach not only the technical aspects of internet security, but provide information and skills on how to avoid becoming a victim of internet crimes and cyberbullying. |
| Highlight any element of the actions that is transferable (max. 500 chars)                          | Most child internet safety programmes in Hungary target parents. HelloWorld's summer camps, however, involve children directly and find a way to explain the dangers and risks associated to using the internet. Given the joyful nature of the camps and the games played there, children may become more alert and enjoy deeper understanding of internet safety.  |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')      | HelloWorld is a civil society organisation with a mission to teach parents, children and teachers about child internet safety. All of its programmes and initiatives are centred around digital technology. Summer camps have always been the focus of their interests; however, 2019 was the first year when HelloWorld decided to combine the otherwise technology-oriented camps to the objective of teaching child internet safety. As the 2019 initiative involved roughly 200 children, HelloWorld seems committed to continue this practice with the financial and technical support of ESET.   |
| Give reasons why you consider the practice as having concrete measurable impact                     | It is difficult to measure how prepared children participating in the camps became; however, around 200 children attended the camps from all regions of Hungary which made these camps a major step towards reaching out to many members of this vulnerable group.   |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | Contrary to classic child internet safety classes that lecture and warn children on the dangers of the internet, the topic and structure of many summer camps offered to children can be easily tailored to engage children and let them experience safe internet use through interactive games and activities. It does not impose significant additional costs to the organisers of other summer camps given that role play typically require a good narrative instead of expensive tools or technology.  |

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| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | In the planning and implementation of the programme, ESET, a professional cyber security firm was deeply involved, and their professionals also demonstrated real life situations in the camps. ESET is one of the most important actors of internet security in the Hungarian digital market given that its antivirus software and firewalls are widely used by both companies and private individuals. |
| Explain, if applicable, how the practice provides for review and assessment.  | There is no information available on how the organisers of the camps plan to review and assess the experiences of the first camps.   |

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| Thematic area  | <b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b><br>Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter   |
| Title (original language)  | Biztonságot és védelmet a családban és a társadalomban - 25 éve a közös fellépésért a nők és gyermekek elleni erőszakkal szemben   |
| Title (EN)   | Safety and protection in the family and in society - 25 years for acting together against violence against women and children  |
| Organisation (original language)   | Patent Egyesület, Nők a Nőkért Együtt az Erőszak Ellen Egyesület   |
| Organisation (EN)  | PATENT Association, 260 NANE Association <sup>261</sup>  |
| Government / Civil society   | Civil society  |
| Funding body   | Not available.   |
| Reference (incl. url, where available)   | <a href="https://16akcionap.org/?fbclid=IwAR3uYo_z-l-b6WDMYi40Imu66n9EP_NrhSmrDZPML8YUSC1S12TN-b6xdVs">https://16akcionap.org/?fbclid=IwAR3uYo_z-l-b6WDMYi40Imu66n9EP_NrhSmrDZPML8YUSC1S12TN-b6xdVs</a>                                      |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 9 December 2019  |
| Type of initiative   | Yearly professional conference of PATENT Association and NANE Association (within the framework of 16 Days of Action Against Domestic violence)  |
| Main target group  | Professionals dealing with domestic violence   |
| Indicate level of implementation: Local/Regional/National  | Not available.   |
| Brief description (max. 1000 chars)  | The conference is open to the following groups of professionals following registration:<br>– crime prevention, victim protection experts working in the field of policing, working in judicial bodies or other authorities and civil experts |

<sup>260</sup> PATENT Association (*Patent Egyesület*) is a Hungarian civil society organisation. It aims to take action against gender-based violence in the fields of law-making and law enforcement. It provides legal aid and psychological assistance to women victims of violence and those whose reproductive rights are limited. More information is available at: [www.patent.org.hu/en/about-us](http://www.patent.org.hu/en/about-us).

<sup>261</sup> NANE (*Nők a Nőkért Együtt az Erőszak Ellen Egyesület*) is a Hungarian civil society organisation with the goal of preventing violence against women and children. More information is available at: <http://nane.hu/egyesuletunk>.

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|   | <ul style="list-style-type: none"> <li>– members of the child protection signal system</li> <li>– persons providing assistance to adult and child victims of partner violence</li> <li>– human rights' organisations, groups</li> <li>– professionals working in public and higher education</li> <li>– state decision makers, parties, local governments</li> <li>– diplomatic bodies, international/inter-governmental organisations</li> <li>– media</li> </ul> <p>The conference intends to cover the following areas in particular:</p> <ul style="list-style-type: none"> <li>– Access to justice and protection of the rights for victims of violence against women and domestic violence</li> <li>– Protection and support of children in the context of intimate partner violence</li> <li>– Sexual violence and harassment - overview, institutional responses and support for victims</li> <li>– Young people and violence against women / intimate partner violence - the role of prevention</li> <li>– New tools and methods of support for professionals and victims/survivors</li> </ul> |
| Highlight any element of the actions that is transferable (max. 500 chars)                          | <p>The conference is based on the close cooperation of two major NGOs working in this field.</p> <p>The conference also intends to reach a wide range of professionals who may encounter / have to deal with problems related to domestic violence. This implies not only professionals working with state authorities or the police or members of the child protection signal system, but other stakeholders as well, such as NGOs, local governments, state representatives, teachers, etc. in order to provide a forum of open debate, to make possible the building of professional contacts, the possibility to put forward ideas and provide information on the findings of recent research projects.</p> <p>The conference covers current topics which have recently gained specific importance.</p>   |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')      | This conference has been organised yearly by Patent and NANE.   |
| Give reasons why you consider the practice as having concrete measurable impact                     | The conference provides a unique forum of open debate, to make the building of professional contacts possible, the possibility to put forward ideas and provide information on the findings of recent research projects in an environment where research shows considerable mistrust amongst various professionals involved in victim protection/child protection and an apparent lack of cooperation between various state/civil actors. The conference intends to build bridges between various actors dealing with domestic violence, which may only be constrained by the joint action of various stakeholders. The conference also thematises some of the most important current issues in relation to domestic violence, partner violence, victim protection. The conference may have a significant mobilising effect, it could also greatly contribute to awareness raising and to the share of vital information with professionals working in this field. This may contribute to future joint actions.   |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | It does not require considerable funding.   |
| Explain, if applicable, how the practice  | The conference is based on the close cooperation of two major NGOs working in this field.   |

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| involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | The conference also builds upon the active participation of various stakeholders who may encounter domestic violence in their practice. This implies not only professionals working with state authorities or the police, members of the child protection signal system, but also NGOs, local governments, state representatives, teachers. |
| Explain, if applicable, how the practice provides for review and assessment.   | Not available.  |

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| Thematic area  | <b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b><br>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.   |
| Title (original language)  | Nappali ellátás, foglalkoztatás és fejlesztés a tanköteles kornál idősebb sérült személyek számára.   |
| Title (EN)   | Day care, employment and development for people with disabilities over the age of compulsory schooling.   |
| Organisation (original language)   | Sérültekért Alapítvány  |
| Organisation (EN)  | Foundation for the Disabled   |
| Government / Civil society   | Civil society   |
| Funding body   | Local government and local business companies   |
| Reference (incl. url, where available)   | Address: 2440 Hungary Százhalombatta, Szellő u. 44. Phone: +36 23 354 601 mailto: <a href="mailto:gatorhaz@mail.battanet.hu">gatorhaz@mail.battanet.hu</a> web: <a href="http://www.serultekert.hu">http://www.serultekert.hu</a>   |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 1991 – on-going   |
| Type of initiative   | Foundation for the Disabled is a public benefit organisation. The foundation provides about 30-40 individuals with day care, home support, development and education, it prepares them for integration in a working environment, ensures their employment, and helps their integration in society.  |
| Main target group  | Mentally or physically disabled over the compulsory education age.  |
| Indicate level of implementation:<br>Local/Regional/National                                       | Local (Százhalombatta) and regional (Érd, Tárnok, Beloiannisz, Ráckeresztúr, Diósd, Ercsi, Martonvásár)   |
| Brief description (max. 1000 chars)  | The Foundation provides for people with mental and/or physical disability with regular, individualised education to maintain and if possible, to improve their skills. This includes the following activities: conductive education, drama pedagogy, musical training, household skills, individual and group psychological advice.<br>The "Cloudwalkers" Drama Group regularly performs at national and international festivals. The group's activities have been recognised with several professional awards. They occasionally play together with other ensembles such as the Forrás Folk Dance Ensemble. ( <a href="https://youtu.be/jQKnTqaixRo">https://youtu.be/jQKnTqaixRo</a> )<br>The Foundation also operates as a social employer, and its employees do basket weaving, other types of weaving and semi-skilled industrial work. Since 2007 the foundation has entered a Supported Service Agreement with the local government. The clients and the foundation have also entered into |

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|  | <p>an individual agreement regarding which service will be provided to the client (transportation, personalised household services; developing employment opportunities). Moreover, the foundation puts together an individual development plan together with each client to set up a roadmap for their individual development. These agreements and the development plan help disabled people in their daily activities by providing them with various services, such as transportation, personalised domestic services, developing an employment scheme, music, drama and drawing therapy, access to psychological support, special education teacher and physiotherapist.</p>   |
| <p>Highlight any element of the actions that is transferable (max. 500 chars)</p>  | <p>The supportive nature of the group, the fact that it offers a mix of services (including various services, such as transportation, personalised domestic services, developing employment scheme, music, drama and drawing therapy, psychologist, special education teacher and physiotherapist) and the funding model can be exemplary for other NGOs working with people with disabilities. The foundation provides care, development and employment simultaneously. The core funding comes from the local government and state normative support. This is complemented by donations from local companies and entrepreneurs.</p>   |
| <p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>  | <p>The Foundation has been operating continuously since 2001 and has an annual Supporting Services Agreement with the local government. This proves that the practice is sustainable.</p>  |
| <p>Give reasons why you consider the practice as having concrete measurable impact</p>   | <p>The Foundation publishes its annual public benefit report, which includes indicators such as the number of recipients of day care and the number of people receiving support in transport and/or home.</p>  |
| <p>Give reasons why you consider the practice as transferrable to other settings and/or Member States?</p>   | <p>The supportive nature of the practice, the fact that it offers a mix of services (including transportation, personalised domestic services; developing employment scheme, music, drama and drawing therapy, psychologist, special education teacher and physiotherapist) and the funding model can be transferrable to other NGOs and Member States.</p>  |
| <p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p> | <p>In general, the planning, design and implementation of all the services provided are based solely on the needs and demands of the clients and their carers (families). Otherwise the activities foreseen by the group would not work, as the clients would not enjoy them or find them useful.</p> <p>The Foundation provides personalised development and employment services. Within the framework of individual development, the institution ensures the personal development of the clients and their abilities as far as possible. When putting together individual development plans, they help the psycho-social functions work better according to their needs. The clients and their families are involved in the elaboration of the individual development plans.</p> <p>The Foundation should submit an annual report to the municipality which partly funds the activities; this report serves as an external evaluation and assessment. Internal professional assessment and evaluation is made at several levels: monthly and quarterly assessment is made individually based on the assessment of the daily activities and achievements of the clients, and the best performance or achievements are awarded with gifts to the clients. A quality assurance manual is renewed every three years, incorporating indicators of satisfaction based on questionnaires filled out by clients, family members and institutional partners (e.g. schools, kindergartens which organises joint programmes with the foundation) to assess the quality of services and partnerships. The quality assurance manual also includes the assessment of the achievement of former goals, and setting new goals based on the expectations of clients, families and institutional partners.</p> |
| <p>Explain, if applicable, how the practice</p>  | <p>The quality assurance manual is renewed every three years, incorporating indicators of satisfaction based on questionnaires filled out by clients,</p>  |

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| provides for review and assessment. | family members and institutional partners (e.g. schools, kindergartens which organises joint programmes with the foundation) to assess the quality of services and partnerships. The quality assurance manual also includes the assessment of the achievement of former goals and setting new goals based on the expectations of clients, families and institutional partners. |
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## Annex 2 – Case law

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| Thematic area   | <b>EQUALITY AND NON-DISCRIMINATION</b><br><br>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report  |
| Decision date   | 14 March 2019   |
| Reference details   | Decision 3047/2019. (III. 14.) of the Hungarian Constitutional Court<br><a href="http://public.mkab.hu/dev/dontesek.nsf/0/d464a6ba7438c1a1c1257fa10058652a/\$FILE/3047_2019%20AB%20határozat.pdf">http://public.mkab.hu/dev/dontesek.nsf/0/d464a6ba7438c1a1c1257fa10058652a/\$FILE/3047_2019%20AB%20határozat.pdf</a>   |
| Key facts of the case (max. 500 chars)  | A religious organisation petitioned the competent minister to register its church as a recognised church (the highest level of legal recognition), which the minister denied. The organisation challenged the decision, and the court of first instance annulled the ministerial decision. The minister in turn appealed this decision, and the highest court (Kúria) rejected the challenge of the organisation, leaving in place the minister's decision rejecting the original petition. The organisation turned to the Constitutional Court that rejected the petition.   |
| Main reasoning/argumentation (max. 500 chars)   | The applicant organisation cited an earlier decision <sup>262</sup> of the Constitutional Court that invalidated, retroactively, key provisions of the law on churches and specifically declared that, as a result of the decision, there is no legal obstacle to registering the churches that had been denied recognition under the law. The applicant claimed that this means that the minister has to register the organisation. While the Constitutional Court agreed with the applicant (and the court of first instance) on the interpretation of its earlier decision, it noted that a relevant amendment to the Fundamental Law <sup>263</sup> had entered into force since then that changed the legal landscape. The Court argued that the applicant only referred to the earlier case-law and not the amended provision, and rejected the constitutional challenge. The Court noted that the applicant entity can reapply for recognition under the law (entered into force in 2019, see report). |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars)         | The decision granted complete deference to the Parliament in a constitutional issue where not only strong constitutional precedent existed, but also a violation of the European Convention on Human Rights had been found (see next point). While challenges are likely to emerge under the new legislative framework on church registration, the decision missed the chance to state constitutional standards for the period following the deregistration of churches.  |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | Requests for being registered as a recognised church can be denied for lack of parliamentary support, while this had been found to be in violation of religious liberty by the Constitutional Court (Decision 6/2013. (III. 1.) of the Constitutional Court) as well as the European Court of Human Rights ( <i>Magyar Keresztény Mennonita Egyház and Others v. Hungary</i> , Nos. 70945/11, 23611/12, 26998/12, 41150/12, 41155/12, 41463/12, 41553/12, 54977/12 and 56581/12, 8 April 2014) and the Venice Commission (Opinion on the Fourth Amendment to the Fundamental Law of Hungary, 14-15 June 2013, CDL-AD(2013)012-e, para. 36).   |
| Key quotation in original language and  | “Ez alapján az Alkotmánybíróság a vizsgált bírói jogértelmezésnek az Alaptörvény VII. cikkével való ellentétét nem látta megállapíthatónak, ezért a támadott ítélet   |

<sup>262</sup> Decision 6/2013. (III. 1.) of the Hungarian Constitutional Court.

<sup>263</sup> The Fourth Amendment to the Fundamental Law, 25 March 2013.

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| translated into English with reference details (max. 500 chars) | alaptörvény-ellenességének megállapítására és megsemmisítésére irányuló indítványt elutasította.”<br>“Based on this [the changed provision of the Fundamental Law] the Constitutional Court could not find contradiction between the judicial interpretation under scrutiny and Article VII264 of the Fundamental Law and, as a result, rejected the claim to declare the judgment unconstitutional and to annul it.”<br>Para. [26] of Decision 3047/2019. (III. 14.) of the Hungarian Constitutional Court |
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| Thematic area   | <b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b><br>Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.   |
| Decision date   | The press reported on 18 September 2019, the text is not available yet.  |
| Reference details   | Ibid.  |
| Key facts of the case (max. 500 chars)  | In the Gyöngyöspata school segregation case also had a further step: the compensation was confirmed in second instance to the pupils who had to endure segregated education between 2004 and 2017 in the village. Altogether, 99 million HUF (approximately 310,000 euros) was awarded in compensation. The decision of the Regional Court of Appeal of Debrecen (Debreceni Ítéltábla) is final, but supervision for legality can be initiated at the Curia. If this remains the final decision, it could have implications on the other segregated schools, estimated to be several hundred in the country. 265 |
| Main reasoning/argumentation (max. 500 chars)   | As the case is not available yet, it can only be said that likely it confirmed the argumentation of lower court.   |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars)         | Segregation, compensation.   |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | As the case is not available yet this entry cannot be populated.   |
| Key quotation in original language and translated into                                | As the case is not available yet this entry cannot be populated.   |

<sup>264</sup> Article VII of the Fundamental Law guarantees the freedom of thought, conscience and religion and deals with the status of religious communities, and churches.

<sup>265</sup> The text of the decision is not available yet. News broke on 18 September 2019. See eg [https://hvg.hu/itthon/20190918\\_Jogeros\\_jar\\_a\\_karterites\\_a\\_gyongyospatai\\_roma\\_diakoknak\\_a\\_szegregacio\\_mia\\_tt](https://hvg.hu/itthon/20190918_Jogeros_jar_a_karterites_a_gyongyospatai_roma_diakoknak_a_szegregacio_mia_tt).

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| Thematic area                          | <p><b>ROMA INTEGRATION</b></p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>   |
| Decision date                          | 14 February 2019  |
| Reference details                      | 2.Pf.21.145/2018/6/I, accessible via website Collection of Judicial Decisions ( <a href="https://birosag.hu/birosagi-hatarozatok-gyujtemenye">https://birosag.hu/birosagi-hatarozatok-gyujtemenye</a> ) by entering the reference number of the case.   |
| Key facts of the case (max. 500 chars) | <p>The case in question concerns the decision of the Budapest Regional Court of Appeal (Fővárosi Ítéltábla). The decision of the court cannot be appealed against within ordinary judicial procedures and thus is considered as final.</p> <p>The case concerns the liability of the State in school segregation cases.</p> <p>In the given case the Budapest Regional Court of Appeal acted as a second instance appellate court. The first instance decision that was appealed against was issued by the Capital Regional Court (Fővárosi Törvényszék). The Capital Regional Court in its first instance decision ruled that the Ministry responsible for education (hereinafter: Ministry) had violated the Roma students' right to equal treatment in 28 primary schools by 'maintaining'/allowing for the segregation of Roma students since the school year 2003/2004. The first instance court in its decision obliged the Ministry to:</p> <ul style="list-style-type: none"> <li>order the public administration authorities with maintainers' rights over the primary schools concerned not to start a first grade programme;</li> <li>order the competent government offices to establish the educational districts in light of the fact that first grade programmes will not be starting in the primary schools concerned;</li> <li>order the public administration authorities with maintainers's rights over the primary schools concerned to prepare desegregation action plans and to subsequently publish these;</li> <li>monitor the implementation of these desegregation plans and publish the findings of this monitoring for five years;</li> <li>amend one of its guidelines (the name of the guidelines is redacted from the decision) in relation to the 'ethnic data management to investigate unlawful segregation in public education' and to subsequently publish the guidelines and oblige the competent government authorities to follow the guidelines in their proceedings;</li> <li>pay within 15 days a fine in the public interest with a value of HUF 50 million (EUR 149,817) with a note that the amount of the fine should be used to finance the activities of civil society organisations focusing on the monitoring of the desegregation programmes.</li> </ul> <p>The first instance court in its judgment argued that the Ministry in charge of education was aware of the segregation of Roma children, as the percentage of Roma children in these schools was 50% in general and in certain schools this percentage even exceeded 80%. The court listed various reasons for backing this conclusion up: e.g. the Ministry was made aware of the unlawful situation at the very latest when the plaintiff filed the complaint with the first instance court.</p> |

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|  | <p>Nevertheless, segregation still existed at the moment when the first instance court took its decision.</p> <p>The first instance court also argued that the Ministry omitted to fulfil some of its obligations, thereby contributing to the segregation of Roma children. It is the Ministry's duty to assess how the educational districts are set up, in particular in cases where the districts are located around areas where the majority of the population is of Roma origin. In these cases, the Ministry should assess whether the way the educational districts are set up ensures the integrated education of Roma and non-Roma children alike. The Ministry in these cases should ensure, by carrying out constant monitoring, that the setting up of the educational districts takes place in accordance with the principle of desegregation.</p> <p>The first instance court also recalled one of the arguments of the Ministry whereby the Ministry argued that it could not have possibly known about the segregation of Roma children given that due to data protection reasons no data were collected about the skin colour, ethnicity or ethnic origin of the students. According to the court this behaviour contributed to the indirect discrimination of Roma children. Regarding this point the court recalled that the Ministry should have considered other fundamental rights, in addition to the right to data protection while acting. In the given case several fundamental rights played a role (i.e. the right to data protection, the right to free choice of school, the right to equal treatment and the right to personality rights) and therefore the Ministry should have prioritised those fundamental rights, the protection of which is essential for terminating the unlawful situation. The court in this respect recalled that some of the fundamental rights, e.g. the right to free choice of school, are not absolute rights and thus could be limited in particular when the protection of other fundamental rights are at risk (e.g. the right to equal treatment).</p> <p>The court also concluded that the methodology of the Ministry for monitoring school segregation and the guidelines available to this end are not suitable for addressing the unlawful segregation of Roma students.</p> <p>Considering the above, the first instance court ordered sanctions that were considered suitable for addressing the complex issue and terminating the unlawful situation.</p> <p>The first instance judgment was appealed against by the respondent, the Ministry. The judgment is redacted, thus no information on the identity of the plaintiff is available.</p> <p>The second instance court partially overruled the decision of the first instance court. Whilst it did not contest the responsibility of the Ministry, it withdrew most of the penalties that the first instance court imposed (i.e. all except for the two that concern the duty for the public administration authorities with maintainers' rights over the primary schools concerned to prepare desegregation action plans and to subsequently publish these and the obligation to pay within 15 days a fine in the public interest). (see entry on 'Results (sanctions) and key consequences or implications of the case').</p> <p>The reasoning of the second instance court is provided below (see entry on 'Main reasoning / argumentation')</p> |
| <p>Main reasoning/argumentation (max. 500 chars)</p> | <p>The second instance court found that the first instance court's conclusion, stating the existence of an unlawful situation was correct. Given that this unlawful situation could be proven the plaintiff was right to argue, within the context of a lawsuit for the breach of personality rights, for the termination of the unlawful situation.</p> <p>The second instance court in its reasoning (see entry on 'Key issues (concepts, interpretations) clarified by the case') also argued though that it is not enough for a court decision to be based on a specific claim and be issued by a specific judgment based on the evidence of a given case. It is also necessary to rule in a way that the decision could be executed/implemented. The area concerned by the given case as well as the relationship of the Ministry with the authorities falling under its supervision are very much regulated by existing laws. The first instance judgment discarded these relationships and rules and was therefore not implementable and ultimately was not suitable for remedying school segregation.</p>  |

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|  | <p>More precisely, the second instance court made use of the following arguments with respect to the sanctions imposed by the first instance court:</p> <p>order the public administration authorities with maintainers' rights over the primary schools concerned not to start a first-grade programme: such order cannot be a general order, but should be based on individualised assessments. Without such assessments it cannot be concluded that a certain solution (in the given case preventing primary schools from starting first grade programmes) is suitable for stopping school segregation.</p> <p>order the competent government offices to establish the educational districts in light of the fact that first grade programmes will not be starting in the primary schools concerned: the second instance court withdrew this sanction in light of the decision taken with respect to the first sanction, as the two sanctions are closely linked.</p> <p>order the public administration authorities with maintainers's rights over the primary schools concerned to prepare desegregation action plans and to subsequently publish these: the court found that it is lawful to order this sanction.</p> <p>monitor the implementation of these desegregation plans and publish the findings of this monitoring for five years: the court while withdrawing this sanction argued that monitoring constitutes the obligation of competent government offices and not of the Ministry. Thus, the sanction was not in line with currently applicable legislation.</p> <p>amend one of its guidelines (the name of the guidelines is redacted from the decision) in relation to the 'ethnic data management to investigate unlawful segregation in public education' and to subsequently publish the guidelines and oblige the competent government authorities to follow the guidelines in their proceedings: the order imposed by the first instance court would have concerned all schools in the country. The given case concerned only certain schools, thus such a general sanction was unlawful.</p> <p>pay within 15 days a fine in the public interest with a value of HUF 50 million (EUR 149,817) with a note that the amount of the fine should be used to finance the activities of civil society organisations focusing on the monitoring the desegregation programmes: the second instance court agreed to the imposition of a fine in the public interest. At the same time, it withdrew the purpose limitation imposed by the first instance court on the ground that such purpose limitation had no legal basis.</p> |
| <p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>         | <p>The second instance court's reasoning touches upon two issues:</p> <p>Criteria for determining the liability of the State;</p> <p>Assessment of the lawfulness of the penalties imposed by the first instance court.</p> <p>1. Criteria for determining the liability of the State: the court found that the respondent had the means available to take measures towards the termination of school segregation and the reintegration of segregated children into the education system. By failing to take measures the State contributed to the maintenance/existence of the unlawful situation. As the existence of the unlawful situation (i.e. segregation of Roma children) is a proven fact (also proven by other judgments) it can be concluded that the State committed a violation of applicable laws.</p> <p>2. Assessment of the lawfulness of penalties: (see entry on 'Main reasoning / argumentation').</p>   |
| <p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p> | <p>The second instance court maintained the findings of the first instance court with respect to the fact that the State was liable. Nevertheless, due to the reasons presented under the entry 'main reasoning/argumentation' (i.e. reasons why the first instance decision was not implementable), it partially overruled the decision of the first instance court and withdrew all the penalties imposed by the first instance court; with the following exceptions:</p> <p>order the public administration authorities with maintainers's rights over the primary schools concerned to prepare desegregation action plans and to subsequently publish these;</p> <p>pay within 15 days a fine in the public interest.</p>   |
| <p>Key quotation in original language and translated into</p>                                | <p>Quotes of relevance in the context of determining the liability of the State:</p> <p>'Miután a jogellenes helyzet bizonyíthatóan fennállt, illetve fennáll, a jogsértés megállapítására jogszerűen került sor.'</p>  |

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| <p>English with reference details (max. 500 chars)</p> | <p>Given that the unlawful situation can and could be proved, the infringement was lawfully established.</p> <p>‘Az alperesnek az Nkt.-ban biztosított jogkörei alapján megvolt a lehetősége arra, hogy ténylegesen eredményre vezető, valóban hatékony intézkedéseket tegyen a szegregáció megszüntetésére, az integráció biztosítására. Ezen hatékony intézkedések megtételének elmulasztásával, passzív "szemlélődő" hozzáállásával a jogsértő helyzet fenntartásához hozzájárult. Miután a jogellenes helyzet bizonyíthatóan fennállt, illetve fennáll, a jogsértés megállapítására jogszerűen került sor.’</p> <p>By virtue of the respondent’s competences, as set out in the Nkt. [note by expert: Act CXC of 2011 on national public education], it was in a position to take truly effective measures to eliminate segregation and ensure integration. By failing to take these effective measures, its passive ‘bystander’ attitude has contributed to maintaining the unlawful situation. Given that the unlawful situation [note by expert: the existence of school segregation] could be proven and could be considered as a situation that still exists, the infringement by the State is considered as being established.</p> <p>Quotes of relevance in connection with the sanctions:</p> <p>‘A végrehajthatóság tehát csak abban az esetben biztosítható, ha a bíróság konkrét kereseti kérelem alapján konkrét, egyértelmű ítéleti rendelkezéssel kényszeríti ki a jogsértés megszüntetését.’</p> <p>Enforceability can therefore be assured only if the court, on the basis of a specific claim, orders the termination of the infringement by means of a specific, clear judgment.</p> <p>‘Polgári jogvitában tehát nem hozható olyan tartalmú rendelkezés, amely figyelmen kívül hagyja a vonatkozó közjogi szabályozást és nem alkalmas a sérelmes helyzet megszüntetésére.’</p> <p>In civil proceedings, therefore, no judgment may be issued which disregards the relevant provisions of public law and is not capable of remedying the harmful situation.</p> <p>‘A Fővárosi Ítéltábla meggyőződése szerint általánosságban, egyediesített szempontrendszeren alapuló vizsgálat elvégzésének hiányában - [...] - nem hozható a jogsértő helyzet megszüntetése érdekében olyan rendelkezés, hogy az alperes utasítása alapján bizonyos iskolákban ne indítsanak első osztályokat, [...].’</p> <p>The Budapest Regional Court of Appeal is of the opinion that as a general rule, in the absence of an examination based on a unique set of criteria – [...] - there is no possibility for taking such a decision that would oblige the respondent to issue an order in accordance with which in certain schools it would not be possible to start primary school classes [...]</p> <p>‘A megyeszékhelyek szerinti járási hivatalok hatáskörébe tartozó új körzethatárok kialakítása értelemszerűen az első osztályok indítását megtiltó rendelkezéshez kötődik, [...].’</p> <p>The obligation for the competent local government offices to designate new borders for the educational districts is clearly linked to the sanction banning the creation of primary school classes [...].</p> <p>‘Jogszerűen kötelezte ugyanakkor az elsőfokú bíróság az alperest arra, hogy adjon utasítást a megjelölt iskolák vonatkozásában a fenntartói jogokat gyakorló államigazgatási szervek számára deszegregációs intézkedési tervek elkészítésére.’</p> <p>At the same time, however, the first instance court legally required the respondent to instruct the administrations exercising maintainers’ rights to prepare desegregation measures.</p> <p>‘Az elkészült terv végrehajtásának ellenőrzése a kormányhivatal, illetve a ... feladata, így az alperes közvetlenül nem kötelezhető a deszegregációs intézkedési tervek végrehajtásának ellenőrzésére, és az ellenőrzés megállapításainak nyilvánosságra hozatalára.’</p> <p>It is the task of the government office or the ... to oversee the implementation of the completed plan, therefore the respondent cannot be directly obliged to monitor the implementation of desegregation action plans and to disclose its findings.</p> <p>‘A perben a keresettel érintett iskolák vonatkozásában kellett állást foglalni [...]. A felperes által kért utasítás adására történő kötelezés azonban általánosan,</p> |
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|  | <p>valamennyi, a kormányhivatalok vizsgálati jogkörébe tartozó iskola vonatkozásában határozza meg a jogellenes elkülönítés vizsgálatának, a cigány nemzetiségűnek vélt, vagy annak vélhető tanulók iskolában, iskolaépületben és osztályban fennálló száma és aránya - [...] - megállapításának szabályait.’</p> <p>The lawsuit had to address the issue of the schools affected by the lawsuit, [...]. However, the obligation to provide the instruction requested by the plaintiff generally determines with respect to all schools falling under the responsibility of the government offices, [...], the rules applicable to monitoring unlawful segregation, the number of Roma students - as perceived to be or believed to be of Roma origin - in the schools, school building or classes.</p> <p>’Egyetértett a Fővárosi Ítéltábla a közérdekű bírság kiszabásával.’</p> <p>The Budapest Regional Court of Appeal agreed to the imposition of a fine in the public interest.</p> <p>’Mellőzte ugyanakkor a Fővárosi Ítéltábla azt az elsőfokú ítéleti rendelkezést, miszerint az alperes ezt az összeget a deszegregációs programok végrehajtásának civil szervezetek általi monitoringjára köteles fordítani 5 éven keresztül, tekintettel arra, hogy nincs jogszabályi alapja olyan tartalmú kötelezésnek, amely az összeg felhasználásáról rendelkezik.’</p> <p>The Budapest Regional Court of Appeal, however, discarded the part of the decision of the first instance court, that would have ordered the respondent to use the value of the fine for the monitoring activities of civil society organisations for five years, given that there is no legal basis for such an order that would allow for the specification of the use of the fine.</p> |
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| Thematic area   | <p><b>INFORMATION SOCIETY, DATA PROTECTION</b></p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter</p>  |
| Decision date   | 2019  |
| Reference details   | BDT 2019. 3988  |
| Key facts of the case (max. 500 chars)  | A state body exercising proprietary rights over two state-owned companies ordered a screening report on the contracting practices of the two companies. This report was forwarded to the Government Control Office (Kormányzati Ellenőrzési Hivatal). The claimant, a private individual, filed a request for disclosing data with public interest and requested the Government Control Office to give away the screening report. The Government Control Office rejected the claim. In its justification, the Office claimed the screening report was a document the Office used as a preparatory document in its decision-making process, and as such, it does not qualify as data with public interest. |
| Main reasoning/argumentation (max. 500 chars)   | The Government Control Office argued the screening report on the contracting practice of the two state-owned companies does not qualify as data with public interest given that the purpose of the report was to assist the Office in making formal decisions over the state body’s exercise of proprietary rights over state-owned companies.  |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars)         | The court had to decide whether the screening report can be considered an internal document which assists a public body to make a decision and as one, it would not qualify as data with public interest.   |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | The court ruled for the plaintiff, the private individual who requested the disclosure of the data with public interest. In its reasoning, the court emphasised that a formal decision-making process is needed to evaluate a document as a preparatory one. Since, in the actual case, the Government Control Office did not formally act and did not make a decision, the screening report did not support any decision-making process. The purpose of the law that does not enact an obligation to disclose preparatory documents in a decision-making process is that the actual  |

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|   | <p>decision will be available to the public and contains a reasoning that clears the justification of the decision. The preparatory documents, therefore, are not relevant anymore in case somebody wishes to challenge the decision. In the actual case, however, the Government Control Office did not conduct a formal procedure and did not deliver a decision. Therefore, the screening report cannot be considered as preparatory in nature.</p>  |
| <p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p> | <p>Ratio decidendi (summary) of the decision:</p> <p>‘Ha az adatkezelő a közérdekű adatok megismerése iránti perben nem tud olyan döntéshozatallal végződő eljárást bizonyítani, amelyben a megismerni kívánt adatokat felhasználják, eredménnyel nem hivatkozhat az adatok döntést megalapozó jellegére.’</p> <p>‘If the data controller is unable to prove in a lawsuit on access to data of public interest that there is an actual decision-making process in which the data was used, it qualifies as an unauthorised exercise of its powers.’</p> |

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| Thematic area   | <p><b>RIGHTS OF THE CHILD</b></p> <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.</p>  |
| Decision date   | 6 March 2019  |
| Reference details   | Regional Court of Appeals in Győr (Győri Ítéltábla)<br>Fkf. 118/2018/8  |
| Key facts of the case (max. 500 chars)  | <p>The defendant in the criminal proceeding was under 18 years old. According to the indictment, the defendant was engaged in a conflict with a homeless person in which the defendant started to beat the victim badly who died as a consequence of the beating. When the police took the defendant into custody, he confessed the criminal offence disclosing the circumstances of the case. The defense attorney claimed the first hearing of the defendant took place in the police department without the presence of a legal guardian, therefore, the procedural rights of the defendant were violated by the authorities.</p>  |
| Main reasoning/argumentation (max. 500 chars)   | <p>In its appeal against the decision of the first instance court that found the defendant guilty of the criminal offence of homicide, the defence attorney stressed the criminal investigation authority (the police) violated the procedural safeguard of the defendant when it did not make arrangements to order a legal guardian to him given that the hearing took place during the weekend. While the defence attorney was present during the defendant’s hearing, the Criminal Procedure Act makes it clear the police has an obligation to hear the child defendant in the presence of a legal guardian. Without that, the defendant’s confession could not have been taken into account when deliberating on his guilt.</p> |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars)         | <p>The key issue clarified by the case was whether it constituted a violation of the defendant’s right when the authority could not order a legal guardian because of the weekend; however, the defence attorney and a person who later became the legal guardian to the defendant on the first workday after the hearing was also present at the hearing in the position of an ad hoc guardian.</p>  |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | <p>The appellate court withheld the decision of the first instance court and stressed the procedural rights of the child defendant were not violated. While the authority committed a formal violation of the right to a legal guardian of the child, the defendant’s interests and rights were not hurt given that both the defence attorney and an ad hoc guardian were present during the hearing. While the latter was not present in the position the Act requires (a legal guardian appointed by the guardianship authority), this</p>  |

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|  | formal violation did not seize the defendant from the procedural safeguards the Act foresees. Moreover, the once ad hoc guardian became the legal guardian on the first workday when the police could reach out to the guardianship authority to assign a legal guardian to the child.   |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | Reasoning of the decision:<br>“Vitatható ugyan az a nyomozóhatósági eljárás, amelynek eredményeképpen az a döntés született, hogy eseti gondnok kirendelése szükséges, ezt követően azonban a lehető legkorábbi időpontban az eseti gyám kirendelése megtörtént a terhelt részére, s ezt követően is maradéktalanul érvényesültek és biztosítottak voltak a gyanúsított jogok, hiszen az első érdemi kihallgatásán a védő és az eseti törvényes képviselő is jelen volt.”<br><br>“Although the investigation authority’s procedure in which they decided to appoint an ad hoc guardian to the defendant is questionable, they corrected it and ordered a legal guardian to him at the earliest possible date, therefore, the rights of the suspect were fully enforced and secured thereafter given that both the defence attorney and the ad hoc guardian were present at the first hearing.” |

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| Thematic area                          | <b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b><br><br>Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..  |
| Decision date                          | Court of Appeal of Szeged (Szegedi Ítéltábla), 25 April 2019   |
| Reference details                      | Municipal Court of Kecskemét (Kecskeméti Törvényszék) 1.B.499/2017/43. szám<br>Court of Appeal of Szeged (Szegedi Ítéltábla), 1.B.499/2017/43.   |
| Key facts of the case (max. 500 chars) | The accused lived in a partner relationship with the victim as of 2007 and they raised five children on a farm. As of 2016, their relationship deteriorated, and the accused became violent with the victim. Due to jealousy, as early as October 2016, the accused humiliated (cut her hair to 3 mm) and caused severe injuries to the victim (beat her with a stick and then caused burns on her face with an electric hot air gun.) The beatings, assaults and humiliations were repeated in October and continued in November 2016. The accused assaulted the victim for several days, caused her injuries e.g. with a knife, and threatened to kill her. The torture and beating of the victim resumed on 10 November and lasted for days. On 12 November 2016, the accused bound the victim to the sofa while he was away and later attempted to kill the victim with an iron pipe. The children were exposed to violence, were asked to bring the accused knife and utensils. The accused also called his sister, telling her that there would be a tragedy and that he assaulted the victim. The relatives notified the Police. The Police and the ambulance visited their house but, at first, left without taking any meaningful action (the accused did not respond to the Police, hid in the bathroom with the victim and threatened to kill the victim if she did not keep silent.) The Police left, but – after the accused called his sister again – the relatives notified the Police again, who returned two hours later, entered the house this time and found the victim in a life-threatening state. According to medical expert opinion, the victim suffered several fractures and bruises and had already been developing sepsis, and had undergone considerable suffering due to the continued beatings and injuries, and would have died without medical assistance in the next 48-72 hours. |

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| <p>Main reasoning/argumentation (max. 500 chars)</p>  | <p>The accused was charged under Act C of 2012 on the Criminal Code<sup>266</sup> with the crime of attempted murder with specific brutality (Article 160 (1) d)), restriction of personal liberty (Article 194 (1) - (2) b)) and child endangerment on five accounts Article 208 (1)).</p> <p>Despite the fact that the conditions for establishing the crime of partner violence by showing a violent, degrading conduct, which severely violates human dignity (Article 212/A (1) a) – (2), Act C of 2012)), are present in the statement of facts, the accused was not charged with partner violence at all.</p> <p>However, as to the crimes committed, the courts did accept the credibility of the victim despite the fact that at first the victim did not dare to name the accused as her aggressor, due to the fact that e.g. the accused was present at her interrogation. At the same time, the contradictory statements of the accused – in most of which he denied all charges and blamed others (e.g. the victim’s alleged lover) for inflicting the injuries, were discarded and taken into consideration only when they corroborated with other evidence.</p>  |
| <p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>                          | <ul style="list-style-type: none"> <li>- the crime of attempted murder with specific brutality, child endangerment on five accounts, restriction of personal liberty with the mortification of the victim, partner violence</li> <li>- secondary victimisation, the interrogation of the victim in the presence of the accused,</li> <li>- evaluation of the fact that the victim changed her statement after interrogated without the presence of the accused</li> <li>- severity of the crimes committed, severity of the punishment</li> <li>- forms of attempted murder</li> </ul>  |
| <p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>                  | <p>Despite the fact that the Police was notified of the violent actions taken by the accused against the victim, at first the Police failed to investigate the case properly and only took actions after repeated notifications.</p> <p>The accused was convicted for attempted murder with specific brutality, child endangerment and restriction of personal liberty and was sentenced to 15 years imprisonment according to the most severe regime. Despite the fact that the conditions for establishing the ex officio punishable form of the crime of partner violence are present in the statement of facts of the case, as the victim lived in a partner relationship with the accused and was assaulted more than once by him, the accused was never charged with partner violence at all. Both courts made considerable efforts to delineate forms of attempted murder or restrictions of personal liberty, though.</p> <p>Altogether the Szeged Court of Appeal found that the punishment of the accused was not severe enough, but as the prosecutor’s office did not demand more severe judgment, the Court of Appeal had no possibility to alter that.</p> <p>However, it is notable that the courts did accept the credibility of the victim despite the fact that at first the victim did not dare to name the accused as her aggressor, due to the fact that e.g. the accused was present at her interrogation.</p> <p>The case did not receive much publicity and went practically unnoticed.</p> |
| <p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p> | <p>„A törvényszék figyelemmel volt a sértett azon vallomására is, hogy miért nyilatkozott úgy előbb, hogy általa ismert személy, tanú neve bántalmazta, és miért nem a vádlottat jelölte meg bántalmazójaként. Ezen alkalommal ugyanis a vádlott is jelen volt, majd később már a vádlott távollétében történt kihallgatásán és azt követően is következetesen vallotta a sértett azt, hogy a vádlott bántalmazta. Helytállóan állapította meg tehát a törvényszék, hogy ezen körülmény a sértett szavahihetőségét nem befolyásolta. A sértettet ért elhúzódó bántalmazás folytán nem várható el, hogy minden részletre pontosan emlékezzék, azonban a sértett minden</p>   |

<sup>266</sup> Article C of 2012 on the Criminal Code (2012. évi C törvény a Büntető Törvénykönyvről), available at: [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=152383.375430](http://njt.hu/cgi_bin/njt_doc.cgi?docid=152383.375430).

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|  | <p>lényeges körülményre vallomást tett, amelyet a törvényszék a tényállása alapjául elfogadott.”</p> <p>„The Municipal Court also took into consideration the statement of the victim on why she declared formerly that a person known to her (...) assaulted her, and why she did not indicate the accused as her assaulter. In fact, on this occasion the accused was also present, but later – during her interrogation in the absence of the accused – the victim declared the accused as her assaulter and consistently upheld her statement. Thus, the Municipal Court established it correctly that this circumstance did not influence the credibility of the victim. Due to the lengthened acts of violence she suffered, it is not expected that the victim remembers every detail precisely, but she made a statement in respect to every relevant circumstance, which was accepted by the Municipal Court as the foundation of the statement of facts [of the case].”</p> |
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| Thematic area | <p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p> |
|               | No case law has been identified for this thematic area.   |