

Supplementary document to the ALTERNATIVE - NGO – REPORT ON THE IMPLEMENTATION OF THE UN CRC IN HUNGARY 2006–2012 – Recent changes in 2013

1. Child poverty

Recent changes

- According to the results of the study conducted by the UNICEF National Committee of Hungary in 2012, the number of children at risk of poverty
- According to the National Social Inclusion Strategy 21% of Hungarian children (~ 380.000) are living in poverty.
- There is a (sub)regional gap to access to adequate healthcare and social services, education in Hungary, in the most deprived regions (e.g. North-Eastern Hungary) especially access for 0-6 years old children to pediatric, health visitation and early childhood, family support services but other areas and even cities are facing severe and growing problems.
- There is no interdisciplinary (social-, health, child protection-, justice-, education) definition of „at risk” “maltreatment” “abuse” there is no common understanding. For many reasons intersectorial cooperation is not working properly, allocation of resources is further weakening it.
- The ombudsman received many complaints from people in need, crisis, many investigations are demonstrating malpractice, lack of adequate support without consequences, impact.¹

Proposed questions to the government

1. What is the root cause of the growing child poverty and why the decreased resources available for families and service providers in this situation?
2. How are you monitoring, evaluating and measuring the effectiveness and efficiency of the child support system, especially for the most vulnerable families?
3. In what way have been the recommendations of the Ombudsman taken into consideration, what kind of changes has been in place based on them?

2. Participation

As part of the NGO Coalition, UNICEF Hungarian Committee launched the “CRC with the eyes of the children” project between March and July 2012. Altogether 2800 children between the age of 5 and 18 were involved. Children were participating from various

¹ www.obh.hu

social groups of the society: children in alternative care, children with disability, Roma children, both from the capital and rural areas.² The results of the survey suggest that children in general are aware of their rights. In spite of the good answers, situational questions and interactive courses revealed that children's rights remained an abstract knowledge for most of the children, and they did not realize that they are present in their own life.

Why would they find important for example the best interest of the child, the right to be protected against abuse or the right to be informed? The survey showed that two out of three children experienced mental abuse (63%), but many of them reported experiences mental health issues (15%), peer bullying (11%), material deprivation (6%), and physical abuse (5%).

3. Education

Recent changes

- The new legislation reduced the age of compulsory education from 18 to 16 since 2012. The quality of vocational schools' curriculum and requirements have been reduced also, therefore more young people are leaving the education system without qualification and chances for employment according to the experiences in the first year of introducing the new provisions
- The schools were nationalised and the management centralised causing anomalies and a lot of rumours at the beginning of the recent school year and still. There is a new, central national institution managing, directing state owned schools, called KLIK (Klebelsberg Intézményfenntartó Központ), where the ombudsman found in his investigation the breaking of rule of law, as the procedure of remedy is in deficiency and controversial. In other cases concerning to KLIK, was found that complaints and requests submitted by parents have not been preceded properly.
- New, national unified curriculum framework regulates the education in schools. The schools are not allowed to differ from it, just up to 10%. The diversity of education have been eliminated.
- Law 190/2011 on public education. According to the new legislation enrollment and attendance of kindergarten will be compulsory from the age of three, but the impelmentation was postponed to September 2015, due to the lack of kindergartens and other resources.
- Nationalisation of public schools deepened inequalities. The state failed to tackle nationwide segregation of Roma and disabled children and those with special needs, legally binding court decisions on ending segregation are not taken into consideration without further consequences. The government is supporting segregation of children for "their own sake".
- Long term plans on public education fail to address segregation and desegregation. In May 2013 Governmental Agencies responsible for education prepared and published educational development plans for each county in which

² Although the research was not representative, due to the high number of participants, it is believed informative and very helpful to highlight the main issues and weaknesses related to the implementation of child's rights in Hungary.

they assessed the current situation of public education and set forth development trends and desirable measures (Art. 21. of Government Decree 229/2012. (VIII. 28.). Unfortunately the development plans do not tackle segregation of Roma and disabled children.

- Lack of data of students in primary education based on belonging to minorities is a barrier to desegregation and planning. In 2013 a new definition for socially disadvantaged status has been adopted, while the new legislation left the procedure intact where children could be registered (Art, 67/§. of the Act XXXi of 1997). Roma children however, even in case they qualify for socially disadvantaged status, are under-registered and remain invisible for officials.
- The Government is working on a new legislation that would enable segregation in case it has “remedial aims”. It is foreseen that schools accommodating only Roma children will be transformed to “remedial schools” and legalised on this basis.
- There is no development in the registration procedure of the socially disadvantaged children, the new provisions left intact the procedural aspect which maintains invisibility of Roma, disabled, special needs in public education.
- The ECtHR (European Court of Human Rights) obliged Hungary to take positive measures against the systematic misdiagnosis of Roma children as disabled.
- Education of Migrant Children (asylum seekers with special needs and minors receiving subsidiary protection). Asylum seeking children with subsequent asylum applications are not allowed to attend school, since according to the Immigration office they no longer have this right in the subsequent asylum procedure.

Proposed questions to the government

1. What measures will be taken to improve the education system for children with special needs for any reason?
2. What kind of support will be provided for early school leavers and for young people who leave school without competences and marketable qualifications?
3. How could the situation of Roma children in public education be improved, if the government refuses to collect data on the perceived ethnicity or other special needs of students?
4. How will the government ensure that “remedial education” will not legalise further segregation, lacking the opportunity to access to secondary school and breach the Racial Equality Directive?
5. How will the Government comply with the ruling of the ECtHR and impose positive measures to overcome the systematic misdiagnosis of Roma children?
6. How will be migrant, refugee and unaccompanied children guaranteed the right to education?

4. Alternative care of children

Recent changes

- Child welfare, child protection and social care institutions went under central management, had been nationalised
- The social workers are underpaid, undervalued, they are overworked, their case loads are very high, basic health, family support and child welfare services are under resourced. Even in very severe cases there is no independent investigation, no consequences on the professionals and agencies involved, no accountability of the system errors.
- According to the most recent modification of Law No. 31./1997 (often referred as the child protection act) a new, special employment status will be introduced for all foster parents and a new training program will be obligatory from 2014, that is contradicting the former well established one, without any professional reason.
- Periodic review of placement and treatment: The periodic review of children in alternative care was obligatory in every year if the child is older than 3 years of age and 6 month under 3. According to new changes in legislation during the first two years in care placement review should be carried out in every 6 month without age limits.
- Emergency care. In spite of the clear timeframe set by the legislation, children, spend long time in interim - temporary - care.³ Procedures to assess the situation and to move the children to short/long-term care or terminate their care are long, complicated and bureaucratic. In 2011 50% of children placed in interim - temporary - care stayed in that type of care between 61 days and 1 year. In 8,2% of the cases their placement exceeded 1 year.⁴ The prolongation of the procedure arises constitutional and fundamental legal concerns in relation to the right to legal certainty and the right of the child to protection and care.⁵
- Refugee, migrant and unaccompanied children: Systematic training for guardians working with unaccompanied minors is not available in Hungary. Moreover, no forms of guardianship supervision, monitoring or evaluation is in place.

Periodic reviews are rather formal processes, 95% of children continue to remain where they have been cared for, and while it is compulsory to use the 'Looking After Children' assessment and documentation system, this is often bypassed. In most cases decisions are made based on documents, neither the parents nor the child or professionals are heard.

From January 2014 children under 12 years of age can not be placed into children's homes, only to foster families, with the exceptions of chronically ill, disabled children, or multiple siblings

³ interim care: emergency placement for children who lost parental supervision or whose development is severely endangered

⁴ Central Statistical Office, www.ksh.hu

⁵ Report AJB-264/2013

Proposed questions to the government

1. How will the universal, local child welfare services be strengthened and resourced adequately to provide the required care and support to families and children, reintegration of children into their families, and prevent out of home placement.
2. How will the Government ensure that foster parents will get the needed resources, services at all levels?
3. Why are these children left out from the reform, and being discriminated?

5. Children with disabilities

Recent changes

- The UN Committee on the Rights of Persons with Disabilities assessed Hungary and was concerned about the large number of children living in institutional settings and about the fact that many children with disabilities received institutional rather than home care. The De-I of children with disabilities does not move forward, children under 12 can not be placed to institutions from 2014 except disabled children (and cronicallly ill children and multiply siblings).
- Under current legislation there is no possibility to provide daycare in institutions for people with disabilities for children under 3 years. The minister responsible accepted the ombudsman's recommendation, and promised to amend the law.

Proposed questions to the government

1. Is there any new strategy in place based on the recommendations of the CRDP Committee to prevent institutionalisation and deinstitutionalise disabled children and placing them into family care or family type settings?

6. Juvenile justice

Recent changes

- Law 62 of the year 2012 modified certain laws in order to implement child-friendly justice. Child friendly witness hearing rooms were set up but the criminal procedures have not changed. The current youth justice system fails to meet the special needs of children.
- Act II. of 2012 on Misdemeanours, Misdemeanour Procedure, and the Misdemeanour Registry System regarding juveniles results in an absurd and unacceptable situation. According to the law there is still a possibility of confinement for juvenile offenders, as well as for the transfer of fine into confinement in case the fine is not paid. According to the law only juvenile offenders over 16 years of age can be sanctioned with community service. Detention of juveniles for petty offences is a violation child rights.
- The interest of criminal procedures can easily override the best interest of the child. Pre-trial detention of juvenile offenders (who are older than 14) shall be executed in either juvenile reformatories or penitentiaries, upon the decision of

court. In practice it means that if there are no juvenile reformatory institutions within a reasonable distance of a given court, the young offender will most likely be placed in a prison near the court to ensure his/her presence and this will also help reduce the costs.

- In July 2012, the Parliament adopted the amendment of an act entering into force from 1 January 2013, which makes possible for the police to take measures against pupils younger than 14 who miss school without permission, but school attendance is not a criminal issue.

Proposed questions to the government

1. What are the root causes of child and youth offending in Hungary and what kind of prevention programs are in place?
2. How the concept of child friendly justice will be implemented (besides the child friendly hearing rooms) including child friendly procedures for offenders?
3. What kind of new supports and services will be introduced for child victims/witnesses of violence/crimes and for the offenders?
4. What kind of measures will be taken in order to improve the detention conditions of juveniles and providing alternatives to detention?
5. Does Hungary intend to eliminate the possibility of confinement of juveniles in petty offence proceedings, given that it constitutes a violation of Hungary's international obligations as set out by the UN CRC?
6. What are the expectations as a result the decrease of criminal responsibility age?

7. *Optional Protocol*

Sale of Children, Child Prostitution, and the Utilization of Children in Pornography

Recent changes

- Children on the move. The protection of CoM is partly a question of capacity issues. In the last years, Hungary has reached some progress both regarding basic and specialised services. There have been some successful initiatives for capacity building, but mainly initiated by the international bodies and NGOs. Despite some improvements, there are still enormous problems rooted in financial limitations.

Proposed questions to the government

2. When will the Lanzarote Convention be ratified?
3. The legislation at some points is in conflict with the international obligations: criminalization of child prostitution, but decriminalization of the age of consent. Are there plans to harmonise the legislation, implement the Optional Protocol on sale etc. and the planned ratification of the Lanzarote Convention?
4. What kind of strategies are available or planned to prevent sale of children, child prostitution and child pornography?