

Alternative Report on the UN CRC (HUNGARY)

on behalf of the Child Rights NGO Coalition:

Association of European Parents in Hungary (ESZME), Chances for Children Association (GYERE), Children's Rights Subcommittee - Korczak Committee (Hungarian Pedagogical Association), Children's Rights Society of ELTE, Civil Liberties Union Hungary, European Roma Rights Center, Family Child Youth Association, Hintalovon Child Rights Foundation, Hungarian Association of the Deaf and Hard of Hearing, Hungarian LGBT Alliance, Kék Vonal Child Crisis Foundation, National Federation of Associations of Persons with Physical Disabilities (MEOSZ), Menedék - Hungarian Association for Migrants, Pressley Ridge Hungary Foundation, Real Pearl Foundation, Rosa Parks Foundation, SOS Children's Villages Hungary, Terres des hommes Foundation, UNICEF National Committee for Hungary, Validity Foundation,

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The report outlined below is based on regular consultations among the participating organizations within the framework of the Child Rights NGO Coalition.

The Child Rights NGO Coalition on the Rights of the Child was founded on the initiative of the UNICEF National Committee for Hungary in 2015. The aim of the professional forum is to promote communication and active cooperation between non-governmental organizations and experts working on child protection and child rights advocacy. www.unicef.hu/gyermekjogi-koalicio

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1. General Measures of Implementation (arts. 4, 42, and 44, para. 6, of the Convention)

Institutional changes

The Ministry of Human Capacities (EMMI) is responsible among others for child protection, education, healthcare, and social policy. The governmental competencies related to children are assigned to four large departments, which fall under the supervision of two state secretaries. The Ministry of Interior is responsible for social inclusion since May 2019, and Miklós Vecsei, Vice President of the Hungarian Maltese Charity Service, was appointed as the commissioner of the prime minister for this task. Hence, **the institutional structure of the government, and policy making, is quite fragmented.**

The framework for the **transformation of the child protection institutional system** was established with amendments to Act XXXI of 1997, Act on the Child Protection and Guardianship Administration (CPA) and Act III of 1993, the Act on Social Administration and Social Benefits (Social Act). The modified CPA stipulates that the municipality of the district, the capital's district government, and the city with county rights are required to operate a child welfare center. In 2015 there were 40 centers nationwide, there are now 197 as a result of the amendment. Family support services and child welfare services were integrated on January 1, 2016, and the establishment of family-child welfare centers at the district level transformed care services into a two-level system, to the detriment of family support services.¹

Data collection

It is difficult to analyze the data from the child protection system as consistency is lacking in cross-sectoral data collection. Education and social sector databases are especially difficult to compare. There is also a lack of statistics concerning the effectiveness of official child welfare measures.² **The difficulties in accessing or publishing data and statistics proved an unprecedented challenge in this reporting period.** There are several obstacles hindering access to data. In some cases, the institution lacks the funds needed to compile data, and in others, despite a legal obligation to do so, the institution fails to publish the data. Additionally, some new legislative measures — such as the new Criminal Procedure Code (entered into force on July 1, 2018), and an amendment to the CPA, which restructured the system in 2016 — and the preparation for their enactment, jeopardized the collection of statistical data.³

Budgeting

¹ http://old.tarki.hu/hu/news/2017/kitekint/20170425_csaladsegito.pdf (last access: August 14, 2019), http://parbeszed.lib.unideb.hu/file/2/585a52d28e115/szerzo/DARVAS_Szolgalatasok_atalakul%EF%BF%BD.pdf (last access: August 26, 2019)

² Hodosán Róza – Nyitrai Ágnes: A gyermekvédelem az OSAP tükrében. 2010.

³ Hintalovon Child Rights Foundation, Child Rights Report 2018. (last access: August 14, 2019)

Formally, the overall level of public spending on children has traditionally been high in Hungary: according to Eurostat, family- or child-related expenditures in 2009 were around 3 percent of the GDP, compared to a 2.3 percent average in the EU-27. This has remained the case in more recent years (around 2 percent). Since 2010, there has been a clear decline in the proportion of benefits on a universal basis, and cash benefits based on need have been nearly terminated. At the same time, a number of tax benefits were introduced by the state (for example, for large families).⁴ Public spending on education and health, as well as other sectors under the EMMI, decreased notably in the reporting period; according to the OECD report, *Education at a Glance*, Hungary spent under the OECD average (3.8 percent versus 5.2 percent) on education.⁵

Legislation

Child protection remained the most unstable state sector from a legislative point of view. During the reporting period, more than 200 amendments legally affected children's rights.⁶ From structural changes to minor alterations, children, their families and professionals faced severe challenges.

Act XXXI of 1997 on the Protection of Children and the Administration of Public Guardianship (CPA) has been modified on several occasions. On January 1, 2014, a significant legal change went into force: children under the age of 12 could no longer be placed in children's home, but were placed instead with foster families — with the exception of chronically ill or disabled children, or multiple-sibling groups (which also constitutes discrimination).⁷ There were few foster homes available, especially for emergency short-term placements, or homes that could offer therapy for children with special needs. In relation to the aforementioned reform, the status of foster parents also changed in January 2014; a special employment status was introduced for foster parents, along with a new, obligatory training program. Foster parents currently are employed on the basis of a labor contract, and are obliged to undergo 500 hours of training. In terms of the appointment of a guardian for children without parental care, as of August 1, 2015, the child protection guardian has taken over guardianship in order to prevent eventual conflicts of interest between the child and the head of the child protection facility, who was previously appointed the child's guardian.

Since the previous reporting period, the government has continued to try to make changes in the field of child protection and children's rights through legal means/legislative instruments (e.g. Protocols by the Ministry of Human Capacities,

⁴ Szatmári Andrea (2019): A gyermekszegénység és a gyermeki jogok érvényesülése. Megjelenés alatt.

⁵ <http://www.oecd.org/education/Education-at-a-Glance-2014.pdf> (last access: August 26, 2019)

⁶ Hintalovon Child Rights Foundation, Child Rights Report 2017.

⁷ The deadlines are set according to age groups: children under the age of 3 should be placed with foster parents until December 31, 2014, children 3–6 years old until December 31, 2015, and children 6–12 until December 31, 2016. This process resulted in a major recruitment campaign for foster parents. One of the concerns is related to those children who enter care because of an immediate danger. They are placed in temporary care, but if under the age of 12, with foster parents (no longer in temporary homes). Still, foster parents do not receive appropriate training and support for dealing with children in temporary care.

amendment of the Criminal Code). Yet, serious problematic conditions remain unaddressed in personnel, financing, and infrastructure (including labor shortages, a high level of turnover, and low wages in the social sector which have not been increased for years).⁸

Act CXV of 2011 on National Public Education (NPA) makes it compulsory for children to attend kindergarten from the age of 3, but also reduces the age of mandatory education from 18 to 16. Before the latest amendments to the NPA, a parent could request their child be exempted from compulsory education before the age of 5 by referring to evolving capacities and the best interests of the child. The new amendment adopted in July 2019 only allows exemptions from compulsory education until the age of 4.⁹

International conventions, ratifications

Hungary signed and ratified the first two Optional Protocols to the UN CRC, but, as of August 2019, **has not signed the Third Optional Protocol on a Communications Procedure**. Hence, Hungarian children have no access to the remedies offered by the UN Committee on the Rights of the Child.

Hungary ratified the Council of Europe Convention on Protection of Children Against Sexual Exploitation and Sexual Abuse (the “**Lanzarote Convention**”) with Act XCII of 2015, which entered into force on December 1st of that year.¹⁰

In March 2014, Hungary signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the “**Istanbul Convention**”), but has yet to ratify it, and therefore it is not part of national legislation.

In spite of pressure from the UN Committee on the Rights of the Child (henceforward: Committee), **there has been no progress** in relation to signatures and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and of the International Convention for the Protection of all Persons from Enforced Disappearance.

Comprehensive policy and strategy

⁸ See the statement in March 2019 about strikes and demonstrations in the social sector of the Association of Hungarian Civil Servants (MKKSZ). https://www.mkksz.org.hu/rovatok/rovatok1/hirek/188-a-kormany-erdemi-targyalasokra-kenyszerult-attores-kovetkezhetsz?fbclid=IwAR01fqVdXRLJrZUEy0u5OvJ5OrO-k1WDTzV1HK2B_qAFsL0Dh5fwBuBn0bo (last access: August 12, 2019)

⁹ See the statement in July 2019 about the amendment of the NPA of the Early Childhood Subcommittee of the Hungarian Pedagogical Association. “The differences between children are great, and the direction and pace of development are individual. Therefore, the timing of both kindergarten and school entry cannot be determined uniformly.” <http://pedagogiai-tarsasag.hu/a-kisgyermeknevelesi-szakosztaly-allasfoglalasa/> (last access: August 12, 2019)

¹⁰ <https://net.jogtar.hu/jogszabaly?docid=A1500092.TV> (last access: June 3, 2019)

The Government **integrated the action plan of the former National Strategy 2007–2032, “Make it better for children”**, which specified tasks for the next 25 years for the eradication of child poverty and exclusion, with the National Social Inclusion Strategy in 2011. It was revised in 2014 (The National Social Inclusion Strategy II).¹¹ The official monitoring report, published in 2017, does not review the most important objectives related to the strategy’s main areas of intervention, it does not present data from the indicator system monitoring implementation, nor does it reflect the results of the “Evaluation Committee”. The majority of developments connected to the strategy and demonstrated in the 2017 report were realized via projects financed with EU funds, impugning their longer-term sustainability.

No national action plan or comprehensive strategy for children has been developed as of yet, except for the Digital Child Protection Strategy, which specifies tasks concerning the protection of children on the Internet. This strategy came into effect in 2016.¹²

The current, long-term **de-institutionalization (DI) “concept”** for large-scale social-care institutions was adopted in January 2017 by Government Decree 1023/2017 (I.24.) It focuses on nursing and care homes for people with disabilities, but **does not effectively include children with disabilities**.¹³ It acknowledges the fact that there are approximately 1,000 children under the age of 18 living in long-term residential institutions, and it states that children with disabilities should be included in the DI process, but we’ve seen no further action taken in this direction, or any special attention paid to the needs of children with disabilities, or children under protection in general. This concept is currently under revision by the state.

There is a lack of strategic amendments in the child protection system (both at the organizational and competency level), which could hinder early interventions, and as a result, the child protection system cannot fulfill its preventive function.¹⁴

There is **no official Hungarian translation available of the General Comments** of the UN CRC Committee, which makes them mostly unknown for the professionals, who should use them in order to a better implementation of the UN CRC.

Coordination

¹¹National Social Inclusion Strategy II. – Extreme Poverty, Child Poverty, the Roma (2011–2020) https://www.kormany.hu/download/1/9c/20000/Magyar%20NTFS%20II%20_2%20mell%20_NTFS%20II.pdf (last access: June 3, 2019) (in Hungarian)

¹² Magyarország Digitális Gyermekvédelmi Stratégiája. Government decree 1488 of 2016 on the establishment of safe Internet services for children. Retrieved from: http://njt.hu/cgi_bin/njt_doc.cgi?docid=197295.326598 (last access: August 22, 2019)

¹³ <https://www.kormany.hu/download/c/23/f0000/kiváltásról%20szóló%20konceptió.pdf> Available in Hungarian. (last access: June 3, 2019)

¹⁴ The Ombudsman made an ex officio inquiry (AJB-4239/2016) into the procedure of the professionals in the child protection reporting system involved in the case of a one-and-a-half-year-old baby girl who had died from starvation in Gyöngyös. He found that recurring omissions from the professionals involved indirectly allowed the parents to continue starving their child for a long period of time. Therefore, the failure of the members of the reporting system played an indirect role in the death of the child from Gyöngyös.

Up to now there has been no national action plan to disseminate and implement child rights. The Committee previously expressed its concerns regarding the lack of a coordinated policy related to the implementation of the UN CRC, particularly at the local level.

Based on Governmental Decree 1187/2017 (IV.12.), an advisory body was set up for the Minister for Human Capacities, the **National Professional College of Child Welfare and Child Protection Services** (Gyermejköléti és Gyermekvédelmi Ellátások Országos Szakmai Kollégiuma), but the operation of this board is not transparent and the outcomes of their work has not been clearly visible in legislative procedures. The College held regular meetings between May 2016 and May 2018, after which it did not convene further meetings. The activities of the College, as listed in the State Report (Para.19–20, p3–4.), are limited in practice to providing "last-minute" comments on legislative changes, reviewing training materials and, in some cases, holding professional consultations with relevant departments. It seems that communication is generally one-directional, with only a few written or oral replies from the Ministry to the College's recommendations. The College did not receive information about the State Report, either during its preparation or submission. There has been significant turnover in college membership.

In 2012, the Government convened a **Thematic Working Group on the Rights of the Child as part of their Human Rights Roundtables**. Nineteen NGOs regularly participated in the working groups, and sixteen more were invited. The outcomes of these events are unclear.

The Ministry did not accept a proposal from the NGOs of the Working Group to discuss, among other things, the Committee's last Concluding Observations, and to prepare a better country report, despite the formal possibility allowing them to do so.¹⁵

Independent monitoring

According to the Committee's previous recommendations, **there is still a need to create a separate, independent children's rights ombudsman institution.** The protection of children's rights is covered by the mandate of the Commissioner for Fundamental Rights (Ombudsman). The Ombudsman, in his latest Annual Report (2018) concerning his activities, asked for support for his staff as they remain underfinanced in comparison with other legal professionals and civil servants.^{16 17}

¹⁵ In April 2015 the Hungarian LGBT Alliance prepared a separate document identifying concrete measures to be taken to implement the latest Concluding Observations. The document was discussed at a meeting of the Working Group, but no information on its follow-up was provided by the Government. Based on information publicly available, of the 24 concrete measures suggested, none has been implemented.

¹⁶ Report on the Activities of the Commissioner for Fundamental Rights and His Deputies. 2018. In Hungarian p241. In English available at: <https://www.ajbh.hu/documents/14315/2993057/Report+on+the+Activities+of+the+Commissioner+for+Fundamental+Rights+and+his+Deputies+2018/ef5f4ffa-ef99-8cf8-e4d3-47ebb39b1026?version=1.0> (last access: June 4, 2019)

¹⁷ In May 2019, 35 NGOs, as well as two former ombudsmen, addressed letters to the President of the Republic. President Áder was called on to nominate a candidate for the post of Commissioner in an open competition for the forthcoming election and in consultation with NGOs. The Hungarian Helsinki

Cooperation with civil society

However there are projects, activities which are supported by the state (e.g. some activities of Kék Vonal, UNICEF National Committee for Hungary), there are some negative tendencies too. Between 2015 and 2017, Validity Foundation ran an EU-funded project on identifying and preventing abuse of children with mental disabilities in institutions in Europe. They conducted monitoring visits to institutions where children with disabilities live in order to pilot a new monitoring methodology, and to gather data and findings. The Hungarian state prohibited monitoring teams from visiting some state-run institutions, such as the Topház institution in Göd, which was suspected of the some of the worst cases of abuse.¹⁸

Recommendations

- Develop a national strategy for child rights with a special focus on the 'best interests of the child' related policymaking that amalgamates the fragmented institutional and policy making structure, and improve the level and quality of strategic cooperation.
- Translate officially in Hungarian and make available for professionals and for the wider public the General Comments of the UN CRC Committee.
- Properly implement the "Make it Better for Children" strategy, and set up an independent monitoring and evaluation committee. To update the strategy, implement the recommendations made by the Ombudsman's Office during its investigations into different issues related to children, including access to and high-quality local, preventive and early support services in all related areas; de-institutionalization; inclusion of children living in poverty, deprived circumstances, and with disabilities, as well as children belonging to ethnic minorities.
- Take effective measures to establish a single body that will be responsible for the overall coordination of activities in the area of children's rights.
- Continue and strengthen efforts in raising awareness among professionals working for and with children, children themselves, parents, and the public at large, about the provisions of the Convention and its optional protocols.
- Adopt a proper care strategy for the relocation of children.
- Develop a concept on children in temporary care placed with foster parents, and introduce related trainings.

Committee (HHC) launched a petition campaign entitled "Ombudsman for All", open for individuals and organizations in order to elect a real "People's Advocate". Until July 2019, the petition had 2362 signatures. In July 2019, the Parliament elected, by two-thirds majority, the new Commissioner, Mr. Ákos Kozma, who had served as the deputy-head of the Independent Police Complaints Board since 2010, and who also worked for the first Orbán government, and for the current governing party, Fidesz.

¹⁸ See Mental Disability Advocacy Centre, The CHARM TOOLKIT piloted findings from monitoring visits: Bulgaria, Czech Republic, Hungary and United Kingdom, page 52, available here: http://mdac.org/sites/mdac.info/files/final_report_en.pdf (last access August 30, 2019) and Mental Disability Advocacy Centre, Straightjackets and seclusion. pp 28–29. Available at: http://www.mdac.org/sites/mdac.info/files/straightjackets_and_seclusion_-_mdac.pdf (last access: August 30, 2019)

- Follow the GC 19 on Child Rights and Public Budgeting, and take into consideration a child-centered, child rights based approach in preparing the budget and implementing it.
- Ratify the Istanbul Convention, the Third Optional Protocol to the UN CRC, and sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and of the International Convention for the Protection of all Persons from Enforced Disappearance.
- Cooperate more closely with NGOs and the National Professional College.
- Establish a separate ombudsman for children's rights.

2. Definition of the Child (art 1)

According to the Hungarian Civil Code of 2013 (Act No V of 2013), the minimum age for entering into a valid marriage is 18, however, in special circumstances a child aged 16 or older may be allowed to marry with the permission of their guardianship (Art 4:9).¹⁹ **According to the Hungarian Central Statistical Office, 388 girls and 37 boys over the age of 16 were married in 2016**, and data for the previous two years were similar.²⁰ In most cases, the age difference between the bride and groom was not more than 6 years (both spouses were between 17 and 23), but **unfortunately, there are marriages wherein the bride is far younger than her spouse, raising concerns of forced marriage**. Since 2009, there hasn't been a single year when a man over 50 did not marry a girl aged 16–17.²¹

A “crisis situation due to mass immigration” was introduced in Hungarian legislation in 2015. This legal period during which special rules apply to those seeking asylum — including unaccompanied (separated) children — has been prolonged several times, most recently until September 7, 2019.²² **The situation for unaccompanied children changed in March 2017 with the amendment of several acts, resulting in the exclusion of the scope (and applicability) of the Act on Child Protection during the crisis situation for unaccompanied minor asylum applicants over the age of 14.**²³ Moreover, the Asylum Act was amended so that asylum applications may only be submitted in the transit zones, where applicants are required to stay for the duration of

¹⁹ Orsolya Szeibert: *Child marriages in Hungary*. Manuscript. 2019.

²⁰ Gyerekházasságok Magyarországon, minden napra jut egy. [Child marriages in Hungary, there is one every day] WMN October 2018. <https://wmn.hu/ugy/49583-gyerek hazassagok-magyarorszagon--minden-napra-jut-egy>. (last access: August 30, 2019)

²¹ <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/hazassagkotes.pdf> (last access: August 14, 2019)

²² See Government Decree 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 .

²³ See Act XX of 2017 on amending certain laws relating to the strengthening of procedures in the field of border control.

the asylum proceedings. **The amendments also provided that unaccompanied asylum applicants over the age of 14 shall remain in the transit zones, while those under the age of 14 should be placed in a special reception facility for unaccompanied children (in Fót).** In addition, according to the amendments, during the crisis situation the obligation to provide a child protection guardian is only applicable for unaccompanied child asylum applicants under the age of 14. In conclusion, since March 2017, asylum applicant unaccompanied children 14 years old or older are no longer legally considered children.²⁴

Recommendations:

- Amend the Civil Code to prevent marriages for children under the age of 18.
- Amend the CPA to expand its scope to all unaccompanied minors under the age of 18, and ensure proper access to services and a child protection guardian.

3. General Principles (arts. 2, 3, 6, and 12)

Non-discrimination

Discrimination against Roma children remains a systemic and structural problem. In the last few years, studies revealed that roughly 70–80 percent of the children in foster care (23,000 children) are Roma (the proportion was 60 percent in 2007, and 66 percent in 2010). The most recent survey showed that 80 percent of all children in foster care are Roma, while the Roma minority makes up only 7–9 percent of the Hungarian population.²⁵ The disadvantageous social situation of Roma is aggravated by discrimination, especially in the field of education, health, employment, housing and access to services, while **Roma girls are facing multiple discrimination.**

Lack of disaggregated data characterized the fight against discrimination and hate crime, as well as the impact assessment/monitoring of policies. While the new EU GDPR regulation restructured the system of data collection, it also allows for disaggregated data collection inter alia, in the case of the informed consent of the person. But, as of yet, **the state seems reluctant to elaborate sectorial regulations and a methodology for disaggregated data collection.** Referring to the State Party report (Para 22-28 page 4-

²⁴ Child Rights NGO Coalition was deeply concerned about the amendments. Statements in Hungarian are available at: <https://unicef.hu/ezt-tesszuk-itthon/gyermekjogi-koalicio/> (last access: June 3, 2019).

In a letter to the Hungarian Prime Minister, Viktor Orbán, the Chairperson of the Council of Europe Lanzarote Committee also expressed his concern about the adopted law. Unaccompanied asylum-seeking children aged 14–18 are now considered adult asylum applicants, and are placed in transit zones, increasing their risk of becoming a victim of sexual exploitation and abuse. <https://www.coe.int/en/web/children/-/lanzarote-committee-delegation-to-visit-transit-zones-in-hungary> (last access: June 3, 2019)

²⁵ *Romani Children and the Hungarian Child Protection System*, Maria Herczog and Maria Neményi, http://childhub.org/sites/default/files/library/attachments/551_581_EN_original.pdf (last access: June 4, 2019).

5), the numbers and data of the Hungarian Central Statistical Office are not fully reliable, and the given figures are underestimated.²⁶

The inspections of Roma homes in Miskolc is an example of several of the problems Roma inhabitants, especially children, face. In 2014, the local government's unlawful practices against Roma inhabitants living in segregated neighborhoods in Miskolc caused national and international outrage. The Hungarian Civil Liberties Union (HCLU) and the Legal Defense Bureau for National and Ethnic Minorities filed a joint complaint to the Ombudsman, which they framed as a fundamental rights plea in regards to the practice of joint inspections coordinated by the Miskolc Municipality Police (MMP) in collaboration with partner agencies. A comprehensive investigation found the practice of conducting inspections violated or posed a direct risk of violating several fundamental rights. The Ombudsman and the Deputy Ombudsman stated that these characteristics of the inspections disproportionately restricted the right to a private sphere for needy, disadvantaged, and predominantly Roma residents, especially children, and were both superfluous and without constitutional justification. The local government of Miskolc did not change its practice, and in 2016 the HCLU and the Legal Defense Bureau for National and Ethnic Minorities filed a civil lawsuit against them. In the first instance, on December 12, 2018, the Regional Court ruled in favor of the applicant and forbade the local government from further infringements. The ruling was affirmed in full by the Court of Appeal on May 9, 2019, therefore **making this the most significant, successful discrimination litigation before the Hungarian courts.**

Although it is forbidden to remove a child from his or her family due to the family's social or financial situation, it has been proven that 30 percent of children in foster care are there due to poverty. In 2017, the Ombudsman examined the situation of children in foster care. **The inquiry found that every third child is taken into care due to his or her family's financial constraints.** Roma are disproportionately affected by this unlawful practice as they are highly overrepresented among the poorest societal groups. As the Hungarian government confirmed in its report, the **removal of a child from its family** should be a last resort which can only be enforced while respecting the principle of gradualism.²⁷ But as practice shows, the child welfare services are in a critical situation. As the child welfare system is greatly underfunded, and staff turnover is very high. At the national level, 30 percent of the necessary personnel is missing.²⁸

Discrimination against Roma children remains a systematic and structural problem in educational settings as well. Recently, a regional court delivered a landmark judgement of discrimination in the case of 62 segregated children. The court held the state responsible for segregating children in education, and was ordered to pay

²⁶ https://www.badurfoundation.org/images/badur/reports/Third_sector_mapping_EN_WEB_FINAL.pdf; (last access: August 29, 2019).

²⁷ In 2015 by the Hungarian Child Welfare Association, http://www.macsgyoe.hu/hirek/aktualitasok/2015-03-20/veszelyben_a_gyerekvedelem_-_macsgyoe_kozlemenye.html, in 2018 by 1,400 professionals, <https://terjed.ahang.hu/campaigns/kozozugyunk> (last access: August 28, 2019)

²⁸ <http://rubeus.hu/wp-content/uploads/2015/07/a-gyermekjoleti-szolgalatok-feladatellatasanak-ertekelo-elemzese-oroszagos-szinten.pdf> (last access: June 4, 2019).

compensation to Roma children who had been segregated. In another case from 2017, the Supreme Court of Hungary (the Curia) proclaimed the prohibition of segregating Roma children in primary schools, and banned a school from enrolling a new first grade class from September 1st, as it had failed to develop a desegregation plan or reform its illegal segregation practices.²⁹

A special form of structural discrimination has been observed against **LGBTIQ+** parents, which constituted also a violation of children's rights. The Ombudsman found that parents applying for adoption were discriminated against based on their sexual orientation, and were unlawfully denied the opportunity to adopt children.³⁰ Children living with same-sex parents (conceived through assisted reproduction, adopted individually or raised in reconstituted families) can have only one of their parents recognized as a legal parent. Their non-biological or non-adoptive parent cannot have full parenting rights. This has direct negative consequences for children: they are not the legal heirs of one of their parents, nor can they count on maintenance in case their parents' relationship ends.³¹ *De jure* discrimination against children living with same-sex parents also makes discriminatory behavior socially acceptable. In 2013, a 13 years old boy was denied admission when a school found out he was being raised by a lesbian couple. The Equal Treatment Authority found the decision discriminatory and fined the school.

Several forms of discrimination against children with disabilities remained in practice. Under the current Media Law, only public service broadcasters and media service providers with the highest average annual audience (currently only two television channels are subject to this regulation) are obliged to make their broadcasts accessible to hearing impaired children. As there are few obligors, most television channels on the market cannot be used by children who are deaf or hard of hearing. **There are no special statutory provisions to provide sign language translation** of fairy tales, movies, and children's programs for children who are hearing impaired and who cannot read because of their young age. Nor is there a statutory requirement that movies, films, or media containing a film should be accessible to hearing impaired children. Despite the legal requirement that public services be equally accessible, **the majority of buildings, facilities, roads, and different means of public transportation are not accessible for children with physical disabilities.**³² As a consequence, children with

²⁹ Hintalovon Child Rights Foundation, Child Rights Report 2017. (last access: August 3, 2019)

³⁰https://www.ajbh.hu/documents/10180/2602747/Jelent%C3%A9s+egy+%C3%B6r%C3%B6kbefogad%C3%A1si+k%C3%A9relem+elutas%C3%ADt%C3%A1s%C3%A1r%C3%B3l+485_2017/36071964-017e-7886-d6b6-5a912ae90861?version=1.0 (last access: August 14, 2019).

³¹ *Szívárványcsaládok helyzete 2016-17* ("The Situation of Rainbow Families 2016-17"), Háttér Society, 2017. In Hungarian: <http://hatter.hu/kiadvanyaink/szivarvanycsaladok-2017> (last access: 28 August 2019)

³² Act LXXVIII of 1997 on shaping and protecting the built environment, 31 (1) c) and (4) c).

physical disabilities often cannot access public services, such as education, educational institutions, and dorms on an equal basis, if at all.^{33 34}

In 2017 the Validity Foundation's released a report exposing **the torture and ill-treatment of residents at a large-scale residential institution.**³⁵

Discriminatory provisions still allow for the segregation of children with disabilities in institutional settings. As previously mentioned, according to the CPA, children with severe disabilities and children with long-term illnesses are an exception to the rule of placing children with foster families rather than in institutions. One of the reasons given for this highly discriminatory regulation is the lack of foster parents capable of caring for children with disabilities. Even the Ombudsman has repeatedly noted that **the number of foster parents who are willing and trained to care for children with disabilities is low**, leading to the frequent institutionalization of children who are separated from or abandoned by their parents.³⁶ Additionally, there have been **no information or awareness-raising campaigns launched in order to promote the adoption of chronically-ill or disabled children, which would allow these children to grow up in a family environment.**

Hungarian legislation also does not provide **a proper identification mechanism for unaccompanied children.** The age assessment practice has been criticized by the CPT, among others.^{37 38}

Although the Fundamental Law and the Public Education Act requires equal access to free primary and secondary education for all children, tens of thousands of **children hospitalized for short- or long-term stays are deprived of the right to education** simply because the state has not established a system of teachers in hospitals. According to the latest data, in 2015 there were a total of 221,315 hospitalized children in infant and pediatric wards, and youth psychiatric wards, but only a few were able to continue their education during their stay, mainly due to a shortage of hospital teachers.^{39 40}

³³ Independent Living - Critical remarks on the possibilities of independent living for persons with physical disabilities, MEOSZ (2017), p. 18.

³⁴ Dr. Mikola Orsolya Irén: Ésszerű alkalmazkodás - Aktuális kérdések a Fogyatékosügyi ENSZ-egyezőny monitorozásával kapcsolatban. <https://www.jogiforum.hu/hirek/38261> (last access: August 14, 2019)

³⁵ The former Topház Special Home in Göd.

³⁶ Case Report AJB-3341/2016 on the OPCAT visit to the Special Foster Home for Children with Disabilities. p 12, Case Report AJB-373/2015 on OPCAT Visit to the Reménysugár ("Ray of Hope") Children's Home of Debrecen, p 12.

³⁷ CPT, Report on the visit to Hungary from 20 to 26 October 2017, CPT/Inf(2018) 42, 18 September 2018, available at: <https://bit.ly/2TTgsTq> (last access: August 26, 2019)

³⁸ In early 2018, the amendment of Government Decree 16/2016. (II. 10.) on the support provided for the purchase or construction of residences, that regulates **the state financial support to families in purchasing or constructing their homes, expressly excluded refugees and beneficiaries of subsidiary protection from the scope** of the Government Decree, thus restricted their rights without any justification, impact assessment and prior consultation.

³⁹ <https://osztalyfonok.hu/cikk.php?id=1908> (last access: August 13, 2019)

⁴⁰ Hospitals in 24 towns have about 55 child care units, most of them have no teachers at all. There is no stable, transparent network of hospital educators tied to a nationwide fund. There is a lack of pedagogical care for children in need of education (especially in hospitals with a large number of patients) due to a lack of a harmonized system and protocol with health care. Currently a non-governmental organization, as there is no state organization, is working in this field: the Hospital Teachers' Association.

In 2016, two NGOs, “The City is For All” and “Street Lawyer”, collected signatures for a petition demanding a solution to **children without valid addresses**. The petition highlighted the problem that currently, only children with a registered permanent address or residence in Hungary are entitled to state-supported healthcare. Furthermore, only families with a registered address can receive a family allowance and regular child protection allowance. According to data from the Central Office for Administrative and Electronic Public Services, in **2015, almost 4,500 children under the age of 18 lacked a valid address, making them invisible to the support system.**⁴¹ The Ombudsman’s, report, AJB-1273/2019, examined effective access to child protection and social assistance for families without a valid address. It found that despite the regulatory advances made in recent years, families in need who are unable to register at a permanent address are still not guaranteed equal access to benefits.

Best interests of the child

In the individual case inquiries of the Ombudsman, the heads of many first- and second-instance child protection authorities indicated that they were unable to meet administrative deadlines in their proceedings due to high turnover rates amongst staff and heavy workloads.⁴² In many reports, the Ombudsman drew attention to the fact that as a result of heavy workload and high turnover, the responsible authorities were unable to enforce the principle of the best interests of the child. **The Ombudsman often called upon the principle of the best interests of the child in his reports.** In 2016, the Ombudsman highlighted how overburdened the child protection authorities are. In 2018, **three reports concluded that no improvements had been made since 2016 on the lack of staffing and disproportionate workloads.**⁴³ The AJB-807/2017 report held that the overly lengthy procedures violate the child’s right to a fair trial, and the child’s right to physical, mental and emotional development. The Ombudsman further concluded that the authorities failed to uphold the best interests of the child as the drawn-out procedures render a children’s situation unstable — violating their right to protection and care.⁴⁴ The lack of sufficient personnel is a key issue for the legal reforms of 2018, which aim to reduce the length of these procedures.

There is a consensus among the legal professionals that the Hungarian translation of the ‘best interests of the child’ in the UN CRC ratification act (and all the implementing laws) is misleading now. The Hungarian term ‘mindenek felett álló érdek’ is closer to the meaning of ‘paramount interest of the child’ than the original substance of BIC. The

⁴¹ Hintalovon Child Rights Foundation, Child Rights Report 2016.

⁴² Reports where the best interests of the child was examined: Case reports AJB-5693/2014; AJB-6124/2014; AJB-4108/2014; AJB-1861/2014; AJB-5001/2014; AJB-228/2015; AJB-4710/2015; AJB-3534/2016; AJB-996/2016; AJB-729/2016; AJB-439/2017; AJB-1817/2017; AJB-4846/2017; AJB-5831/2017; AJB-811/2018; AJB-807/2018; AJB-1831/2018; AJB-3312/2018; AJB-304/2019; AJB-606/2019

⁴³ Case reports AJB-807/2018., AJB-1441/2018., AJB-488/2018.

⁴⁴ 663/2017. (IX. 13.) Korm. határozat a gyámhatóságok megerősítéséről és a gyermekjogi képviselők létszámának emeléséről

mistaking hinder the effective understanding and implementation either in legal suits or in child protection cases.

Respect for the views of the child

Regarding criminal procedure — in 2016, after allegations of **sexual abuse** in a children's home in Bicske became public, the ombudsman launched a [follow-up investigation](#) due to the number of problems that arose in the 2012 investigation into that home. According to the report, some staff members were aware that sexual assault took place in the home, yet offered no real help to the children involved. The Ombudsman emphasized that **we cannot talk about the realization of children's right to freedom of expression if what they say has no consequence**, if they are not taken seriously, or if their complaints are not handled formally.

Recommendations:

- Develop a national action plan against the discrimination of Roma children. Also develop a special protocol for professionals working in the child protection system to prevent the structural discrimination of Roma families.
- Launch an awareness-raising campaign and increase the number of foster parents especially prepared to care for children with disabilities and long-term illnesses.
- Collect data on children who are temporarily or permanently hospitalized and what services are available for them in order to create an evidence-based advocacy program that pushes for the development of educational services.
- Review the current legislation and eliminate every discriminatory norm against children without a valid address.
- Remove all discriminatory provisions from the child protection law and implement the EU age assessment standards (see: FRA Handbook on age assessment)
- provide systematic training on the best interests of the child for authorities dealing with children (e.g. judges, police, child protection professionals)
- Launch a National Awareness Raising Strategy on the UN CRC with special focus on the 'best interests of the child' and organize special trainings for professionals on BIC, including the GC 14 (2013).

4. Civil Rights and Freedoms (arts. 7, 8, and 13–17)

The Ombudsman (Case report AJB-2601/2014) has examined **how children are made aware of their rights**, especially how this information is disseminated through school curriculum, several times. In 2008, the Ombudsman found that Hungary had not met UN CRC obligations in regard to the number of, and accessibility to, comprehensive courses on children's fundamental rights. As a result, the Ombudsman launched an ex officio investigation into the state of activities aimed at raising awareness of the general and special rights of children, including disabled persons and minority children.

In 2016, a **popular movement was initiated to call for reforms in education**. An estimated 10,000 students dressed in plaid shirts across the country. On February 29, 2016, thousands of students refused to attend school in support of a teacher's strike held that day. The **participation of children in the movement for quality education stirred public debate**.⁴⁵ The **protests involved thousands** of students marching for a modern, child-centered and fair educational system. They continued in 2018. The head of the Independent Student Parliament asked for a public debate on education with the candidates for the office of the prime minister. The debate was held with all but the governing party's candidate in attendance. Moreover, the Independent Student Parliament submits recommendations for educational reforms every year, yet they have never received a reply.yet

The public debate on the **draft for the new National Curriculum** marked an important opportunity for students to express their views. A lack of proper information, however, jeopardized their participation. Of the 500 people offering opinions on the draft, only 6 percent were students.⁴⁶

In its most recent Concluding Observations, the UN Committee on the Rights of the Child pointed out that in guaranteeing children the right to information, they must have access to a great variety of opinions. This right came under threat in 2016 with the lack of variety in educational materials and books; a **state-monopoly on text books** restricted this freedom of choice.⁴⁷

In February 2017, the **National Student Parliament met** and held frequent discussions concerning educational reforms. Led by the Independent Student Parliament, protests were organized in the autumn, which some media portrayed with a **political undertone**.

Student councils in schools have the right to freedom of expression as established in the Act on National Public Education, but some of their entitlements were taking back as outlined in the former Public Education Act, and their license has become formal and empty. (For example, they previously had the right to agree on the adoption of a school policy.) This can be particularly noticeable and severe when the organization running the school (school maintainer) changes. In many cases, when a church becomes the maintainer, the Council is ignored.

Freedom of association and of peaceful assembly (art. 15)

High school students often face negative consequences for participating in demonstrations, including extra exams. The Budapest Police initiated petty offence

⁴⁵ Hintalovon Child Rights Foundation, Child Rights Report, 2016.

⁴⁶ Hintalovon Child Rights Foundation, Child Rights Report, 2018.

⁴⁷ The government has been pushing private publishers out of school textbook supply since 2013, but since textbook licenses last five years, schools have been able to order some non-governmental textbooks. However, the licenses have now expired, and private publishers may no longer supply the 2019/2020 textbook. School can only order language books, nationality books, vocational training and textbooks for pupils with SEN, from non-state monopolized suppliers <https://szuloihang.hu/tk2019-gyik/> (last access: August 12, 2019)

procedures against protesting students for walking in the street instead of on the sidewalk during protests in the spring of 2018.⁴⁸

Blanka Nagy, a high school student, participated as speaker at a demonstration against an amendment to the labor law in December 2018. Her speech was strong, sometimes indecent, and strongly critical of the governing party. Later, heavy media attack came against her and other students who took on public roles. Ms. Nagy won a lawsuit against a newspaper (Lokál) and an online media outlet (origo.hu).⁴⁹

Protection of privacy and protection of image (art. 16)

During the 2018 Hungarian parliamentary elections, the National Election Commission (NEC, Nemzeti Választási Bizottság) took a stand in nine cases on how children could appear in political campaigns, and case law has started to move in the right direction. The NEC stated: videos or images of politicians meeting children, which are made available to voters, can be considered campaigning as children cast politicians in a positive light and this may influence the will of the electorate.⁵⁰

Children are often used by politicians in their campaign as accompanying participants, despite the Ombudsman deeming the practice a violation of children's rights. The Ombudsman warned politicians against using children as campaign tools during the European Parliament elections in May 2019.⁵¹

Access to information from a diversity of sources and protection from material harmful to a child's well-being (art. 17)

According to the Digital Economy and Society Index published by the EU in 2017, Hungary made progress on connectivity; the number of internet users grew significantly throughout society. The level of digital skills in the country, however, scores below the European average. Therefore, the government has launched a campaign, Digital Immunity Boost Program, to raise awareness and conscious use of the internet.⁵²

In report No. AJB-497/2016 the **Ombudsman carried out a comprehensive study of media literacy and education in schools**. According to the Ombudsman, there is a lack of qualified media professionals in schools, and media-understanding is not part of the "National Curriculum Framework" yet - although, according to the 2020 National Curriculum Framework, there will be a subject on "Digital culture".

⁴⁸ The Hungarian Civil Liberties Union developed a toolkit about petty offenses and the freedom of assembly for students, parents and teachers. <https://tasz.hu/cikkek/kerdesek-es-valaszok-tiltakozo-diakoknak-szuleiknek-es-tanaraiknak> (last access: August 14, 2019).

⁴⁹ <https://www.theguardian.com/world/2019/jan/21/hungary-pithy-insult-dogs-orban-as-anti-government-protesters-resort-to-ridicule> (last access: August 14, 2019)

⁵⁰ <http://www.ekint.org/bejegyzes/2018-06-28/politika-pedofilia-milyen-volt-a-2018-as-valasztasi-kampany> (last access: June 20, 2019)

⁵¹ <https://www.ajbh.hu/en/-/a-gyermekek-ne-legyenek-a-partpolitika-diszletei-eszkozei-az-alapveto-jogok-biztosa-es-helyettesei-kozos-kozlemenye> (last access: June 20, 2019)

⁵² Hinalovon Child Rights Foundation, Child Rights Report 2017.

Recommendations:

- Include child participation in all policy making processes which directly affects children.
- Identify children's rights education as part of the National Curriculum and provide training for teachers about children's rights.

5. Violence Against Children (arts. 19, 24, para. 3, 28, para. 2, 34, 37 (a) and 39)

Although corporal punishment was outlawed by an amendment to the CPA in 2005 (beyond the CRC and other regulatory guidelines), the effect of this restriction on the actual well-being of children is hard to measure. **There has been no comprehensive report or representative study completed on this topic as of yet, and there are no official statistics or data collected on this issue.** UNICEF National Committee for Hungary conducted a non-representative survey of children's rights among 1,191 primary and secondary school students aged 10–19 in 2014.⁵³ Nearly every second child, 44 percent of the respondents, thinks slapping or hitting does not count as violence. **Two-thirds of the children were unaware that it is abusive to hit another child.** Two out of three children do not ask for help if their rights have been violated, and half the children did not know if their rights had been violated.

Some politicians publicly argued for corporal punishment in 2019.⁵⁴

In report No. AJB-690/2019, **the Ombudsman examined the actions against maltreatment of children in various institutions.**⁵⁵ As previously mentioned, the Ombudsman carried out follow-up investigations (No. AJB-273/2017) at the **Kossuth Zsuzsa Children's Home in Bicske**. The Ombudsman's inquiry into this matter in 2012 was followed by a police investigation against the director, who was fired by the investigative authority in the summer of 2012. The investigation revealed that the children's rights to protection and care had been violated by the fact that the staff did not report that they suspect the children were being sexual abused.

Further **examples of child abuse in children's homes: Zalaegerszeg.** A comprehensive (National Preventive Mechanisms, OPCAT) investigation conducted by

⁵³ <https://unicef.hu/ezt-tesszuk-itthon/hazai-kutatasok/a-gyerekek-kozel-fele-szerint-egy-pofon-belefer/> (last access: June 24, 2019)

⁵⁴ Mayor of a Hódmezővásárhely in a social media post first, then in an interview later, argued for corporal punishment. <https://merce.hu/2019/06/24/marki-zay-peter-szerint-elfogadhato-a-gyerekek-testi-fenyitese/> (last access: August 26, 2019)

⁵⁵ In their complaint, parents reported that their child had been humiliated and had to endure psychological abuse by nursery school teachers, and that when they made a complaint they did not get a substantive response. The ombudsman determined that the nursery school and its maintainer, the local government, failed to comply with its obligations, but he also warned about an acute systemic problem.

the Ombudsman (AJB-159/2017.) has uncovered specific and systemic improprieties in connection with the operation of the Children’s Home of Zalaegerszeg and the treatment of the children being taken care of therein. The Ombudsman found it a grave violation of the law that the director of the home decided to put one of the children under health monitoring, which restricted the child’s personal liberty, for almost one and a half months — far surpassing the statutory maximum of 48 hours. An on-the-spot inspection also uncovered that “special” sanctions were applied as punishment against children who broke the rules of the children’s home or who were deemed difficult to handle.

Professional and financial conditions of effective school prevention, and lack of professionals continues to be a problem. The ‘ school child protection officer’ was removed from the Act on National Public Education, the MA-level course for teachers of child and youth protection was abolished in higher education, as was training for teachers of leisure and play.

After five years of preparatory work, a **Barnahus** was opened as a pilot program in Szombathely in 2016, but the legal background for its proper use and functioning is still lacking.⁵⁶ Since 2019, the Barnahus in Szombathely has received funding from the EMMI, and there are plans to support the establishment of a Barnahus in Budapest.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) students often experience verbal and physical harassment, physical abuse and discrimination in school research conducted by Háttér Society in 2017 shows. According to Háttér Society’s *National School Climate Survey 2017*⁵⁷, an online survey with the participation of 919 LGBTQI students between the ages of 13 and 21, the majority (82%) reported being verbally harassed at some point in the past year based on their personal characteristics. LGBTQI students most commonly reported experiencing verbal harassment at school because of their sexual orientation (64%) or how they expressed their gender (56%). 22% of LGBTQI students reported physical harassment (e.g. being shoved or pushed) because of their sexual orientation. Almost one in five LGBTQI students (18 and 19%, respectively) experienced physical harassment because of their gender identity or gender expression. 13% of LGBTQI students were physically assaulted (punched, kicked or injured with an object) at school because of their sexual orientation, and 10% because of their gender identity or expression. Other forms of harassment were also present at schools: such as being deliberately excluded or being the target of rumors, sexual harassment, and cyberbullying.

Helplines

Kék Vonal Child Crisis Foundation – Kék Vonal is a nationwide, toll-free, non-stop helpline that receives calls from children and young people (until the age of 24). It is confidential, anonymous, and operates on the European harmonized numbers 116-111 and 116-000. It has approx. 35,000–40,000 calls per year. Based on its statistics, the

⁵⁶ <https://barnahus.hu/az-izlandi-modell/a-magyar-megvalositas/> (last access: June 24, 2019)

⁵⁷ Research report in English: <http://en.hatter.hu/sites/default/files/dokumentum/kiadvany/school-environment-report-en.pdf>

main topics discussed in the calls are problems related to family, peer relationships, friends and schools. In 2018, more than 1,000 consultations referred to some form of domestic violence, abuse or bullying. Kék Vonal is partly co-funded by the Ministry of Human Capacities (EMMI). It joined the European Commissions' Safer Internet Program in 2008, and became the Internet Helpline in Hungary.

Yelon – In 2017, a special helpline/chat dedicated to sexual education topics for children aged 9–18 began operating. Yelon assists child victims of sexual violence. Based on its statistics, more than 40 percent of the chat discussions refer to some form of sexual violence, harassment or commercial exploitation. Since 2017, more than 10,000 children have sought help from or used Yelon services.⁵⁸

Section 17 (7) (b) of the CPA specifies that the Directorate-General for Social Affairs and Child Protection operate a free, non-stop **“Child Protection Hotline”** from January 1, 2017. The Hintalovon Child Rights Foundation requested the official statistics of calls made to the hotline, and of the 238 calls received in 2017, 55 percent were seeking information, 28 percent required further action, 20 percent were reporting risk, 9 percent were seeking help, and 13 percent were making a false call.⁵⁹ This child protection number is intended as the fourth level in the national child-safety alert system.

The Ombudsman launched an inquiry ex officio in 2012 into the interest of exploring the efficiency of the baby box program, and the situation of pregnant women in crisis situation. The number of unwanted pregnancies and abortions remains high in Hungary, and infanticide as well as child abandonment are an existing problem, but there are no exact data on this. The Ombudsman stressed that in the interest of prevention, a great emphasis must be placed on awareness-raising, education, and support of pregnant woman at risk. Baby boxes were situated at urban hospitals, but those who could make use of them found out about their existence only by chance. The investigation found that information pertaining to baby boxes is incomplete, which leads to an impropriety concerning fundamental rights.⁶⁰ ⁶¹There is no data available on the number of children left in baby boxes, nor about the infants' characteristics (boy, girl, disabled, etc.).

Recommendations:

- Raise awareness on the prohibition of corporal punishment and other forms of violence against children.

⁵⁸ <https://yelon.hu>

⁵⁹ Hintalovon Child Rights Foundation, Child Rights Report 2018.

https://hintalovon.hu/sites/default/files/hintalovon_gyermekjogi_jelentes_2018.pdf (last access: August 13, 2019).

⁶⁰ AJB-5441/2012. No. Report. In: Annual Report

on the Activities of the Commissioner for Fundamental Rights and his Deputies, 2013.

<https://www.ajbh.hu/documents/14315/2843265/Report+on+the+Activities+of+the+Commissioner+for+Fundamental+Rights+and+his+Deputies+2013/496edc97-7b9b-de33-14c8-18d3005d28eb?version=1.0> (last access: August 29, 2019)

⁶¹ See also: Spread of 'baby boxes' in Europe alarms United Nations.

The Guardian. <https://www.theguardian.com/world/2012/jun/10/unitednations-europe-news> (last access: August 28, 2019)

- Ensure proper training and supervision of professionals in children's homes, and guarantee child residents access to support services in order to prevent violence in institutional settings.
- Create the proper legal and professional background for the Barnahus.
- Ensure financial and professional support for violence prevention in schools.
- Collect data on child abandonment and infanticide, and support at-risk pregnant women.

6. Family Environment and Alternative Care (arts. 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para. 4)

Although article 7 of the CPA prohibits the **removal of children** from their families for purely material reasons, it remains an existing practice, and is the case for at least 30 percent of all children entering child care, as shown by the reports of the Ombudsman and by the latest concluding observations of the UN Committee on the Rights of the Child.⁶² The number of children entering state care continues to grow despite the decreasing birth rate. Some professionals would argue that this is partly because of the lack of tools in the basic child welfare services.

It is of concern that the majority of small group homes (SGHs), and many foster homes, are located in remote areas with no proper transportation or opportunities for children to access basic services. **There is a lack of special programs or adequate specialist services to address children's complex developmental needs.** Despite of the clear legal provisions, children in many instances reside very far from their families, and parents are not provided with the necessary assistance to visit their children.

A 2016 HCLU campaign ("Missing memories"/ Hiányzó emlékek) and petition drew attention to the fact that separation of children from their families due to poverty is a violation of children's rights.⁶³ They also argued that the actual cases of children being taken into care might be due to ethnic discrimination. HCLU's campaign included professional recommendations to the Ministry of Human Capacities, supported by well-known professionals and organizations, but as of the writing of this report, the Ministry had yet to reply.

For the last 30 years, **de-institutionalization** has been an immanent part of the Hungarian child welfare and protection system. **But still, too many children are living in institutions. There are even care institutions for children aged 0–3.** There are an

⁶² See more in the comprehensive ex officio inquiry number AJB-2026/2017 where the ombudsman explores the safeguards set out in the CRC. The inquiry extended to Budapest, Borsod-Abaúj-Zemplén, Nógrád, Pest and Szabolcs-Szatmár-Bereg Counties. It had already been concluded in an earlier report and confirmed by the Hungarian Central Statistical Office, as well as by professionals, that every third child who is taken into state care is removed from their family because of their financial and social situations. This is so despite the fact that the CPA stipulates that no child should be separated from their family exclusively for endangerment arising from financial reasons. In: Annual Report of the Commissioner for Fundamental Rights and Deputies, 2017. p 16.

⁶³ <http://hianyzoemlekek.tasz.hu> (last access: August 12, 2019)

insufficient number of foster parents for the youngest children. (See Annex 1., Tables 1-2.)

The **number of foster parents** varies between 5,400 and 5,600 nationwide, but their coverage is geographically disproportionate. Over half of these foster parents live in settlements with fewer than 2,000 inhabitants, where basic services are often lacking. In 2017, there were 1,055 foster parents who could provide care for children with particular needs, and only 15 who could provide care for children with special needs.⁶⁴ The government is committed to increasing the number of foster parents, as there simply aren't enough, and thus, a nationwide campaign was launched in October 2018 to recruit potential candidates. However, some experts say it would be difficult to increase the number of foster parents for various reasons (e.g. misunderstanding of foster parenting, poor reputation, lack of tradition, etc.), while the number of children in care is increasing, and the quality of foster care remains questionable.

The Civil Code significantly changed the rules on parental custody, which also had an impact on **parental child abduction** proceedings. In 2017, the Ombudsman conducted ex officio proceedings to map the handling of parental child abduction cases in Hungary.⁶⁵ Based on the statistical data (from January 2010 through December 2015), the number of incoming cases has doubled (from 12 to 28 cases), and the number of outgoing cases has almost tripled (from 44 to 111). According to the findings of this inquiry, the best interests of the child and the right of children to protection and care have been violated.

Recommendations:

- Eliminate the practice of removing a child from their family due to financial reasons and make an effort to strengthen family support and basic child welfare services.
- Develop local, high-quality, accessible services for children and their families to ensure the well-being of children and the realization of their rights, including health, education outside of school, and social services.
- Implement the UN Guidelines on Alternative Care for Children, taking into consideration the Moving Forward Handbook, as well as the Common European Guidelines on the Transition from Institutional to Community-based Care, and the Toolkit on EU Funds for the Transition from Institutional to Community-based Care.

⁶⁴ Based on article 53 of the CPA: *Special care for children* means adequate care for children with serious psychiatric or serious dissocial symptoms, or alcohol/psychoactive drug users with special educational needs. *Particular care for children* means appropriate and balanced care for children who are under 3 years of age, or for children who have long-term disease or any disability.

⁶⁵ The report on case AJB-1299/2018 is available here: <http://www.ajbh.hu/documents/14315/131278/The+investigation+of+the+Commissioner+into+parental+child+abductions.pdf/c2a2b754-7e84-a166-4ce3-81a8290f3666?version=1.0&download=true> (last access: August 16, 2019)

7. Disability, Basic Health and Welfare (arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1–3, and 33)

Children living with disability

There are more than 35,000 children in Hungary living with disabilities. According to statistics, the number of children with special educational needs continues to rise, yet deficiencies in the educational system have kept them segregated. Their access to education, health- and social care is insufficient, as is the case for children separated from their families (however, for different reasons). According to data published by the HSCO, in 2017 as many as 829 children with disabilities lived in institutions for the disabled. One-third of children placed in children's homes or small group homes live with disabilities, while the number of foster parents qualified to take care of children with special needs has dropped by 20 percent.⁶⁶

On September 1, 2017, a provision came into force which provides **children with hearing impairments** the possibility to participate in early development and care through the bilingual method, and the possibility for pre- and elementary education in special education institutions. **Despite the legal provisions, the material and personnel conditions necessary for introducing bilingual education have not been ensured**, and there have been no special trainings to prepare teachers and staff for bilingual education. The Sign Language Act sets up a timeframe for **free sign language interpreting** services for deaf and hard of hearing students, but it is not enough to make the classroom accessible to students who need sign language interpretation.⁶⁷ There is no possibility for primary school pupils to study beyond the 120-hour limit for the year, and in secondary education and adult education, the number of extra hours is not sufficient to allow deaf and hard of hearing students to participate in every lesson and lecture.

The Decree of the Minister of Health Care expands the list of medical aid and support that is available to all children with hearing impairments to help ensure it is affordable for their families. The range of social security system-assisted hearing aids and self-supporting info-communication technologies (e.g. induction loops), is narrow compared to the auxiliary devices in circulation. Without state support, however, purchasing them is an immense cost for the hearing impaired child and their family, so in most cases they cannot buy hearing aids that are appropriate for their hearing condition and are forced to choose from the social security system-assisted medical aids.

The concept of **de-institutionalization** of adults with disabilities has remained on the social policy agenda of the government, but Hungary is still one of the twelve Member States that was recognized by the European Commission as a country in need of DI reform. In its latest concluding observations (2018), the Human Rights Committee was concerned by the large number of people with disabilities who are forcibly placed in institutions, held in isolation or subjected to forced treatment, and the inadequacy of the

⁶⁶ Hintalovon Child Rights Foundation, Child Rights Report, 2017.

⁶⁷ <https://net.jogtar.hu/jogszabaly?docid=A0900125.TV> (last access: June 8, 2019)

current legal framework to achieve de-institutionalization and enhance appropriate community-based support.⁶⁸ In some cases, experts say “deinstitutionalization schemes” are actually resulting in trans-institutionalization (re-institutionalization in smaller settings).⁶⁹

While on a rhetorical level the government is trying to put an emphasis on family-based care, **to date it has not developed or implemented an efficient strategy to replace children’s homes with family-like or community-based accommodation.**⁷⁰

The Ombudsman has also dealt with the situation of children with disabilities, particularly those with “special needs” and those with “multiple needs” in state care. One of the common findings of these reports is that **children with disabilities in state care are not provided with appropriate care for their conditions.** Due to both the lack of specialized staff and the lack of ample, system-wide capacity, children’s homes providing “particular care” or “special care” are not prepared for or suitable to care for children with disabilities.⁷¹ Furthermore, the Ombudsman has repeatedly expressed concern that in some of the children’s homes that were visited, the liberty of movement of children with psycho-social disabilities was often restricted to seclusion, in many cases upon admission and for a prolonged period of time (exceeding 48 hours).⁷² Concerns were also raised in regard to the risk of unnecessary use of neuroleptics, violence against some children,⁷³ and their involvement in child prostitution.⁷⁴

While it is clear that the care provided in children’s homes or social care institutions are not appropriate forms of support, the government continues to invest funds in these settings. (See Annex 2)

⁶⁸ Human Rights Committee. Concluding observations of the sixth periodic report of Hungary. 2018 May 8. CCPR/C/HUN/CO/6
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnm97%2bRfSonZvQyDICMC7to7lkIHViwiffCrjxVJVYr7AYGd1bD3LqpWwx7fjwdowp0XO09j1KeHx2S0%2be4%2fGUZf4WEtz0X6rsDTNt6FAcrQ> (last access: April 22, 2019)

⁶⁹ NGO information to the United Nations Committee on the Rights of Persons with Disabilities. For consideration when compiling the List of Issues Prior to Reporting on the Second Periodic Report of Hungary under the Convention on the Rights of Persons with Disabilities. MDAC. 17 February 2017.

⁷⁰ It has not put emphasis on prevention, family strengthening and gatekeeping programs, approximately 95% of children remain in care following the review, and the number of children reintegrated into their families is minimal. As a result, a large number of children, including children with disabilities, are institutionalized across the country in children’s homes and social care institutions. In 2017, 7,482 children lived in children’s homes (the same number as in 2013), while 15,000 children were placed with foster families. The majority of these children stay in children’s homes for a period of 1 to 10 years (on average 5 years).

⁷¹ Case report AJB-1201/2016.

⁷² Case Report AJB-704/2016 on OPCAT visit to the Zita Special Children's Home of the Somogy County Child Protection Directorate, p 12-13, Case Report AJB-705/2016 on OPCAT visit to the Special Children's Home of the Károlyi István Children's Center, p 17.

⁷³ Case Report AJB-705/2016 on OPCAT visit to the Special Children's Home of the Károlyi István Children's Center.

⁷⁴ Case Report AJB-704/2016 on OPCAT visit to the Zita Special Children's Home of the Somogy County Child Protection Directorate, Case Report AJB-1603/2016 on OPCAT visit to Cseppekő Gyermekotthon.

The **integrated education for physically disabled children who use wheelchairs is still very limited**. In the absence of accessible structures, their participation in education at all levels is not guaranteed. In addition, this fact, as well as the lack of disability-specialists and traveling teachers contributes to disabled children's parents choosing specialized schools for their children. **The traveling network of special education teachers suffers from a serious shortage of professionals**, therefore children with disabilities in mainstream schools do not receive their required upgrades.⁷⁵ The majority of teachers are not trained in the appropriate treatment of children with disabilities. The children generally are not provided with personalized support measures.⁷⁶ Their parents often view segregated education as a protected environment that may prevent abuse, school bullying, maltreatment and violence against students with disabilities. Students with physical disabilities are often not provided with accessible education and have to travel long distances, or choose to live in a residential institution.⁷⁷ However, due to inadequate funding of support services that operate with a limited capacity and territorial coverage, even the daily transport of disabled children to school is problematic.⁷⁸

Healthcare

Looking at the trend over the last ten years, **infant mortality has fallen** from 5.9 per mille to 3.6 per mille between 2007 and 2017.⁷⁹ In Hungary, the proportion of newborns weighing under 2500g is very high (8.5 percent) compared to Europe, and has stagnated in the last fifteen years. There is also significant territorial disparity within the country. Between 7 and 8 percent of all newborns need intensive care. In addition to direct health reasons (such as infectious, chronic and organic diseases, and injuries in pregnant women), preterm birth is also influenced by socio-economic and cultural factors that can be improved with targeted social and public health programs.⁸⁰ Low-level maternal education, smoking, alcohol consumption, and stress levels are among the most prominent factors leading to birth risks.⁸¹

⁷⁵Szabó Diána: Utazó gyógypedagógiai szolgáltatás a résztvevők oldaláról. A Közép-magyarországi régióban végzett interjú vizsgálat tapasztalatai. In: Iskolakultúra. 25. Évfolyam. 2015/5-6.szám. p77.

⁷⁶ See for example: case no. EBH/549/2018 of the Equal Treatment Authority and the case report of the Ombudsman: <https://www.ajbh.hu/-/az-ombudsman-a-sajatos-nevelesi-igenyu-gyermekek-fejlesztésenek-pr> (last access: August 30, 2019)

⁷⁷ Independent Living - Critical remarks on the possibilities of independent living for persons with physical disabilities, MEOSZ (2017), p. 18

⁷⁸ **Támogató Szolgálatok Szakmai Felmérése 2015, Nemzeti Rehabilitációs és Szociális Hivatal** http://szocialisportal.hu/documents/10181/87698/tsz_tanulmany_2016.pdf/360d75a1-98b7-4b82-9051-21ffd179a2ce?fbclid=IwAR14gyQqfbx6tF6DDa_2pDZmf8GFAg9gXxHRLjVmrIOLTEsU7n2yYGcV55k (last accessed: August 14, 2019)

⁷⁹ Hungarian Central Statistical Office. KSH Statisztikai Tükör 2019. február 22. <http://www.ksh.hu/docs/hun/xftp/stattukor/csecsemohalalozas.pdf> (last access: August 30, 2019)

⁸⁰ Balázs P. és mtsai: (2015) A koraszülés epidemiológiája Északkelet-Magyarországon. Gyermekgyógyászat, 66:166-172.

⁸¹ SH Statisztikai Tükör 2019. február 22.

<http://www.ksh.hu/docs/hun/xftp/stattukor/csecsemohalalozas.pdf> (last access: August 30, 2019)

Hungarians are among the heaviest smokers in Europe. In Hungary, the proportion of regular smokers among adolescents is above the EU average (20 percent, compared to the EU average of 14 percent).⁸²

Alcohol consumption is slowly decreasing in adults, but the heavy drinking observed among adolescents is worrying. Per capita alcohol consumption lingers around 10 percent higher than the EU average. Extreme alcohol consumption during adolescence requires special attention.⁸³ Concerning alcohol consumption, according to ESPAD results, the number of Hungarian youth partaking in binge drinking is significantly higher than the international average.⁸⁴

In Hungary, the social care system plays a decisive role in the management of addiction treatment alongside the health care system. Cooperation between the two is far from conflict-free. The blurring of professional competences and boundaries, coupled with the ongoing difficulties of funding, often make multisector cooperation impossible.⁸⁵

The **use of designer drugs** is more common among schoolchildren aged 14 or younger. These new drugs are cheaper and easier to access. The spread of designer drugs in the countryside has been studied. According to a non-representative study, 50 percent of children in segregated areas use some form of designer drugs from the age of 12–13.⁸⁶

No detailed information is available on public expenditure on drugs. The government adopted a policy program to implement a National Anti-Drug Strategy. Most prevention targets were met (43 percent), but only 22 percent of targets were met for treatment and care, and only 18 percent for supply reduction. **Low-threshold services are still not a priority.** In 2018, excluding **Budapest, only four counties offered child and youth psychiatric in-patient care**, and rehabilitation was available in an additional two.

In terms of being **overweight or obese**, 15-year-olds in Hungary are above the EU average. Their number has increased by more than 50 percent since the 2001–02 survey, and was already at 19 percent in 2013–14.⁸⁷ In 2013, the National Institute of Food and Nutrition (OÉTI), together with the Office of the National Chief Medical Officer and the

⁸² State of Health in the EU. Hungary 2017.

https://ec.europa.eu/health/sites/health/files/state/docs/chp_hu_hungary.pdf (last access: July 12, 2019)

⁸³ State of Health in the EU. Hungary

2017. https://ec.europa.eu/health/sites/health/files/state/docs/chp_hu_hungary.pdf (last access: July 15, 2019)

⁸⁴ ESPAD-Country specific trends <http://www.espad.org/report/trends-1995-2015/country-specific-trends> (last access: July 15, 2019)

⁸⁵ B. Erdős M, Vojtek É, Bognár A, et al.: Az addiktológiai rendszer vizsgálata Kutatási jelentés szociologia.btk.pte.hu/sites/default/files/4_Dimenzio/kutatasi_jelentes_1228_1.docx (last access: October 6, 2018)

⁸⁶ Nemzeti Drog Fókuszpont 2018-as ÉVES JELENTÉS (2017-es adatok) az EMCDDA számára http://drogfokuszpont.hu/wp-content/uploads/EMCDDA_jelentes_2018_HU.pdf (last access: July 21, 2019)

⁸⁷ State of Health in the EU Magyarország Egészségügyi országprofil 2017

https://ec.europa.eu/health/sites/health/files/state/docs/chp_hu_hungary.pdf Letöltve: 2019. július 15.

Office of Public Health of the Government Offices, conducted a comprehensive survey of public school meals in Hungary and later introduced a program for healthier school meals.

Several news items concerning Hungarian hospitals drew the public's attention to **the state of healthcare services**. According to the National Public Health and Medical Officer's report of 2016, published in 2017, there were **133 cases of infection** in 8 perinatal intensive care units treating premature and low-birth-weight babies. The government, rather than address these issues directly, emphasized the existing conditions for **safe healthcare**, launched a campaign on **family-friendly maternity wards**, and promoted breastfeeding.⁸⁸

According to the National Health Insurance Fund of Hungary (NEAK), 7 percent of all **visiting nurse** positions remain vacant, even though one-tenth of regional or mixed visiting nurse services are carried out via substitution — far exceeding the legally prescribed maximum of 250 persons.⁸⁹ Geographic inequalities are clear: 40 percent of visiting nurses work in Budapest or Pest County, while in Nógrád County, 27 percent of the positions are vacant. Over 60,000 children do not have access to pediatric care, and 89 pediatrician positions remained vacant (6 percent).⁹⁰

Research on **family planning and sexual education** raise further concerns. HCSO data published in 2016 show that in **2015, 5,774 girls between the ages of 10 and 19 gave birth, and a further 4,233 opted for abortion**.⁹¹ There is serious deficit in sexual education: not all families or schools are prepared to answer children's questions on sexuality. There is no standardized 12th grade curriculum on sexual education.⁹²

Besides promoting sexual education and prevention, an **efficient legislative framework and support for professionals** is also necessary, and is clearly demonstrated by a case from 2016 wherein a patient advocate addressed the Ombudsman on behalf of a

⁸⁸ Due to a viral infection in February, the **pediatric intensive care unit in the capital was overflowing** with patients; the **central heating was not working** in several children's hospital due to delayed refurbishing — relatives spoke out against the **unbearable conditions**; and the Public Prosecutor began investigating the case of a **lethal infection of a child**. See more: Hıntalovon Child Rights Foundation, Child Rights Report, 2017.

⁸⁹ 49/2004. (V. 21.) ESzCsM (Egészségügyi, Szociális és Családügyi Minisztérium) rendelet a területi védőnői ellátásról, 5. § (1)

⁹⁰ In Békés, Nógrád and Tolna counties 14–16 percent of the population have no access to these services. Almost every tenth school doctor position is vacant (276), while in Tolna and Borsod-Abaúj-Zemplén counties one in six positions is vacant. Full-time school doctors provide for 10 percent more students than the maximum allowance, while in Vas county they are three times (311 percent), in Nógrád they are two times (208 percent) over the limit.

⁹¹ <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/terhessegmegsz16.pdf> (last access: August 14, 2019).

⁹² Often, insufficiently substantiated materials are brought to schools without professional control. Behind school abuse and exclusion, homophobia appears, which politics also affirms. In March 2019, a submission by the Independent Representative of Our Country Movement called for greater governmental control of NGOs involved in school sexual education. According to MP Dóra Dúró, the change is necessary not only to educate only a specialist, but also to "exclude the dissemination of knowledge aimed at promoting sexual orientation and deviance".

https://hvg.hu/itthon/20190326_Valaszoltak_Duro_Doranak_partoknak_semmi_keresnivaloja_a_szexuali_s_felvilagositast_vegzo_civilek_szabalyozasaban?fbclid=IwAR2Xd8Sfg3mlkZtPXbMZipssfOL8BvWpBwrk7U3lf4A_jdnaJ6lax2vcNA (last access: August 13, 2019)

pregnant 16-year-old girl. The Ombudsman raised several human rights concerns in his report following the [investigation](#) on abortion for minors aged 14–18. The requirement of approval of the legal representative, as well as the ambiguity of legislation, may lead to serious risks in these crisis situations. The Ombudsman urged amendments to the regulation and the development of a methodological guide.

Children are entitled, via legal regulations, to have an accompanying person by their side throughout their in-patient hospital care. Nevertheless, **many hospitals do not allow parents to stay with their children.** They create short “visiting hours” or remove the parent from the hospital room or ward when there is a medical intervention. In many hospitals, parents cannot stay with their child overnight. In case No. AJB-1256/2018, the Ombudsman reviewed the conditions for parents to remain with their child in the hospital while the child receives hospital care. There are no minimum rules governing the circumstances of parents’ stay in hospitals in the Health Act, instead it is up to the individual health care institutions to decide such rules.⁹³

Although more and more maternity wards qualify as child-friendly in Hungary and provide the possibility of **rooming-in**, there **are still several hospitals which separate the newborn and the mother right after birth, do not allow breastfeeding on demand**, or place the mother and child in separate rooms or wards. A recent report of the Ombudsman (AJB-605/2019) called for establishing a common practice according to which hospitals support the continuous and uninterrupted contact between the mother and infant (rooming-in). There is no clear prohibition of ambulant birth. Maternity wards, however, do not support the mother leaving the hospital before the 3rd day after the birth of the child.

Geographical inequalities and public health measures are not effective in reaching out to inhabitants of the most disadvantaged areas of Hungary. Furthermore, severe cut-backs and reorganization in these sectors have proven unfavorable for disadvantaged groups, particularly the Roma. Special attention needs to be paid to children whose health is heavily impacted by the socio-economic status of their parents. In the field of health care, disadvantaged social and housing situations also affect the general health condition of children. This phenomenon deeply affects Romani children, the majority of whom live in the most disadvantaged areas or segregated slums in Hungary.

Welfare

The negative impacts of the enduring and cyclical financial and economic crisis in Hungary were felt throughout society, but certain groups, such as families with children, were more affected than others. All of the main indicators of the EU Statistics on Income and Living Conditions (EU-SILC) — such as the at-risk-of-poverty (AROP) rate, anchored poverty, or severe material deprivation rate — point to an **increased risk of poverty and**

⁹³ In November 2018, a man launched a charity campaign on his private social media platform in order to collect money to provide beds for the parents who accompanies their child in hospital. He bought over 400 beds. It has a huge media outreach, and some hospital did not accept the beds.

social exclusion among these groups.⁹⁴ But after 2014, the poverty rate of children, according to HCSO data, has significantly improved. In Hungary, the poverty rate of children decreased from 25 percent in 2014, to 15 percent in 2017, and to 13.9 percent in 2018. At the same time, the poverty rate for the entire population has slightly decreased from 13.5 percent in 2016, to 13.8 percent in 2017, and 12.8 percent in 2018.⁹⁵

In the period between 2013 and 2017, Hungary recovered from the 2009 economic crisis, and macroeconomic indicators and employment rates have continued to improve. Improvements have sometimes brought the country back to pre-crisis levels for some indicators, including most poverty indicators, which points to a better situation than before the crisis. **However, in some regions, where about 10 percent of the country's population lives, poverty rates are 3–4 times higher than the rest of the country. Here almost 50 percent of children live in poverty, and this staggeringly high rate has not decreased in 4 years.** While the rates of families and children living in poverty is very high among the Roma in Hungary, the vast majority of the poor people in Hungary are not Roma. For families with children, employment rates are lower than the national average as one parent has a high chance of being inactive (especially when children are under the age of 3) due to bringing up the children, and they may find it more difficult to enter the labor market. In families with children, the lack of job opportunities and job losses have a far greater impact on the financial situation of the family (especially when children are raised in a single-parent family). Access to grants has been significantly reduced, and the monetary amount of these grants has either decreased or remained unchanged since 2010.⁹⁶

Based on the CPA and the 328/2011. Governmental Decree, **meals are provided free of charge** in nurseries and kindergartens to children who receive regular child protection benefits, or who are disabled or permanently ill, or who have a sibling who is permanently ill or disabled. A child who lives in a family where three or more children are raised by their parents, thus considered a large family, can also receive meals free of charge. The budget for summer meal provisions were raised to 6.67 billion HUF in 2017, and to 8.24 billion HUF in 2019.⁹⁷

There are relatively little publicly-available data on the income situation of households with children, especially their position in the income distribution and its variations. The HCSO does not provide income data for households with children, only deciles for all households. Changes in the income structure of the lower three-tenths between 2010 and 2017 (especially 2010 and 2017) reflect the impact of governmental policies on social transfers, in particular, reducing unemployment benefits, expanding public employment, and not improving universal child support. At the same time,

⁹⁴ Children of Austerity. UNICEF, Oxford University Press. 2017. https://www.unicef-irc.org/publications/pdf/Children_of_austerity.pdf p129. (Last access: June 21, 2019)

⁹⁵ Gábos András és Tóth István György (2019): Gyermek helyzet a gazdasági válság idején és utána. In: Civil jelentés a gyerekesélyekről 2014–2017, GYERE 2019 megjelenés alatt

⁹⁶ Bass László: Gyermekes családok Magyarország válság övezeteiben.(2014–2017), Civil jelentés a gyerekesélyekről, 2014–2017, GYERE, 2019, megjelenés alatt

⁹⁷ Darvas Ágnes: Jogszabályváltozások, irányok (2014–2017). Civil jelentés a gyerekesélyekről. 2014–2017, GYERE, 2019, megjelenés alatt

according to HCSO: "social transfers play a major role in reducing child poverty, without which three times as many children would be affected by income poverty."⁹⁸

By 2017 there was no longer a normative, statutory cash benefit (allowance) in the Hungarian benefit system that would support housing maintenance, the prevention of arrears and debt, or the repayment of existing debts. Current housing subsidies are available depending on the discretion and resources of the municipality. Housing security (and, consequently, arrears management) has become normative, even at a low level. The consequences of this, including the increased risk of families with children losing homes, are predictable.⁹⁹ Introduced in 2015, the Family Housing Benefit Scheme (CSOK) provides a significant budget outlay and support framework, but it is not a solution for families in a precarious position on the labor market because of their unpredictable income level. The Family Protection Action Plan entered into force on July 1, 2019, and included the following measures: the "baby shower" subsidy, the expansion of the subsidized-interest loan available within the framework of the CSOK to include pre-owned properties, an expanded form of the scheme enabling families to have some or all of their mortgage debt waived, and a car-purchasing subsidy for large families.¹⁰⁰ Due to the eligibility criteria, all of these subsidies and measures support middle class families rather than families with no or lower incomes.

"Menstrual poverty" is still a taboo¹⁰¹ subject in society, however, it is estimated that thousands of women and young girls in Hungary cannot afford to purchase feminine hygiene products, and therefore have to contend not only with poverty, but also with the social stigma associated with menstruation.¹⁰²

Housing poverty also affects health as access to health services is not easy, and attitudes towards people in this situation within the health care system varies. They most vulnerable people cannot heal within the public system, and private practices are inaccessible to them.¹⁰³

According to Eurostat data and Habitat for Humanity annual reports,¹⁰⁴ the rate of homes fully equipped with public utilities in Hungary is generally good, but there is a segment of

⁹⁸ Farkas Zsombor: A gyerekes családok életkörülményeinek néhány jellemzője 2013–2017 között. Civil jelentés a gyerekesélyekről, 2014–2017, GYERE, 2019, megjelenés alatt

⁹⁹ Darvas Ágnes (2019): Jogszabályváltozások, irányok (2014–2017). Civil jelentés a gyerekesélyekről. 2014–2017, GYERE, 2019, megjelenés alatt.

¹⁰⁰ <https://www.kormany.hu/en/ministry-of-human-resources/news/information-on-the-family-protection-action-plan-is-also-available-via-the-national-telephone-customer-service-hotline> (last access: June 24, 2019)

¹⁰¹ However in December 2018, an NGO charity campaign was launched, called "Not a luxury bag" (nem luxus táska) aiming to raise awareness about menstrual poverty and support vulnerable women with hygiene means. www.nemluxustaska.hu (last access: August 30, 2019)

¹⁰² https://index.hu/mindekozben/poszt/2018/10/05/a_menstruacios_szegenyseg_csokkenteseert_kuzd/ (last access: August 16, 2019)

¹⁰³ https://nyomorszereblog.hvg.hu/2019/03/23/674-gyogyszerek-es-melyszegenyseg/?fbclid=IwAR1luwEgp0O5nU8-xqJgHI-4RHM-OvWTUp8yvblhACcbJR3dUJOv_vGDhDc (last access: August 16, 2019)

¹⁰⁴ https://www.habitat.org/sites/default/files/housing_review_2015_full_report_final_small_reduced.pdf
<http://www.kormany.hu/hu/emberi-eroforrasok-miniszteriuma/szocialis-ugyekert-es-tarsadalmi-felzarkozasert-felelos-allamtitkarsag/hirek/91-milliard-forintbol-folytatodik-a-komplex-telepprogram>
http://habitat.hu/frontend/web/ext-files/Habitat_annual_report_on_housing_poverty_in_Hungary_2015_EN.pdf (last access: 29 August, 2019)

housing typically belonging to the lowest-status households, which are left far behind in terms of access to basic utilities and hygienic services. **The situation is even worse for children: in 2015, approximately 91,000 children lived in homes without bathrooms, 92,600 with no toilet, about 500,000 in leaking, wet, potentially unhealthy apartments, and more than one million children lived in overcrowded housing.** At least 70 percent of the homes in Hungary are in need of upgrading the level of their energy efficiency. The structural problems within the housing sector, such as an unfavorable tenure structure that includes only a 3 percent social rental sector, may affect the Roma population more negatively than non-Roma.

Recommendations:

- Expand the list of state-supported, info-communication medical aids, including hearing aids, accessories, signaling devices, assistive lifestyle technologies, creating a safe and secure home and living environment for deaf and hard of hearing children, which is an indispensable condition for independent living.
- Develop and implement an efficient strategy to replace children's homes with family-like or community-based accommodation.
- Develop a national alcohol strategy, and support addiction care for youth.
- Promote sexual education and prevention, which will also decrease the number of teen pregnancies and abortions.
- Set up minimum rules in the Health Act governing the circumstances of parents' stay with their children in hospitals.

8. Education, leisure and cultural activities (arts 28-31)

Equal access to education at all levels (secondary and higher education) is increasingly difficult.¹⁰⁵ One in ten young people entering vocational school drop out ¹⁰⁶without a baccalaureate.¹⁰⁷

¹⁰⁵ Fejes József Balázs – Szűcs Norbert: Az oktatási integráció ügye a 2010-es évek végén. In: uők (szerk): *Én vétkem. Helyzetkép az oktatási szegregációról.* Motiváció Egyesület, 2018 (p11–31)

¹⁰⁶ Referring to the State Party report Para 208., an **expert opinion about EFOP P-3.1.5-16-2016-00001 based on observations in school year 2018/19 in 7 participating schools**: “In our understanding EFOP 3.1.5. classifies schools into three categories based on the risk of drop-out rates. Schools with the lowest risk of drop-out rates receive the highest support from the HRDOP project both in financial and human resources (compensation to teachers). This way, schools at the highest risk of becoming segregated receive the least amount of support from the project. At the same time, these schools must perform the most administrative work required by the project. As one principal put it “the project penalizes those schools who are in the most vulnerable situation and who are most threatened by segregation without being at fault of the process”.

¹⁰⁷ Széll Krisztián – Nagy Ádám: *Oktatási helyzetkép: iskolai életutak, tervek és lehetőségek.* In: Nagy Ádám (szerk.): *Margón kívül – magyar ifjúságkutatás 2016.* Excenter Kutatóközpont. Budapest http://www.ifjusagugy.hu/kotetek/Margon_kivul_2016_web.pdf (last access: August 30, 2019)

The high number of students who leave school early is **related to the low minimum age of compulsory schooling (16)**, and is most clearly seen in vocational schools.¹⁰⁸ Regions in Hungary where there is a higher rate of poverty are characterized by the full implementation of segregated education (“ghetto schools”). Primary schools mostly are unable to fulfill the requirement of equal access.¹⁰⁹

The **vocational training system further increases segregation** by making applying for motivating factors (for example, there are certain qualifications you must meet to apply for scholarships, such as being a full-time student) more difficult. As a result, the most vulnerable are often facing insurmountable challenges to complete their studies.¹¹⁰ The government is planning to change the system of vocational training, which was introduced only a few years ago, and which has been criticized by many experts, without an impact assessment.¹¹¹

There is severe doubts among experts about the success of the **HID program, as an equalizing tool**, and while a Workshop School has been proposed, the sub-qualifications obtainable there are expected to have severe limitations in terms of their usability. The overload of teachers and the reduced number of hours spent on teacher-psychological training, may account for the deterioration of the disciplinary and punitive culture of the school.

Teaching **public ethics** in public schools can be reasonably justified. Ethics education was introduced in 2013 in public schools, however, should not encompass the questions of **private morals**. Parts of the national curriculum contain issues in connection with ethics that concern the private life of the individual, including what should be regarded as “good”, “bad”, “right” or “wrong”, which are mostly subjective values of the individuals. These issues may create a difficult situation for pupils. Solely the fact that parents have to declare whether they would like their child to receive theological or secular ethics education jeopardizes the freedom of religion, because the religion or conviction of the child is officially revealed.

¹⁰⁸ Radó Péter: A közoktatás szelektivitása, mint a roma szegregáció általános kontextusa. In: Fejes-Szűcs i.m. (p31–56)

Varga Aranka: A hazai oktatási integrációs tapasztalatok és a korai iskolaelhagyás megelőzése. In: Fejes-Szűcs i.m. (P 67–88)

¹⁰⁹ Case report AJB 343/2015, Nóra L. Ritók: Láthatatlan Magyarország. Tea For Rent 2017, Budapest (p129–145)

¹¹⁰ Gablini Gábor: (2018): A XXI. század szakképzése, mint a magyar gazdaság egyik kitérési pontja. Opus et Educatio. 3. sz. (p.260–262)

http://epa.oszk.hu/02700/02724/00018/pdf/EPA02724_opus_et_educatio_2018_03.pdf (last access: June 24, 2019)

¹¹¹ Szenes György (2018): A középfokú szakképzés kívánatos fejlesztési iránya Opus et Educatio. 3. sz. (p.293–298), Magyar Pedagógiai Társaság Szakképzési Kollégiuma: Vélemény a NAT tervezet szakképzési vonatkozásairól. <http://pedagogiai-tarsasag.hu/nat-2030-szakkepzes/> (last access: August 30, 2019)

In many settlements public schools have been handed over to religious communities and became “**church-run schools**”. Church-run schools receive significantly more support from the central budget than public schools.¹¹²

The Deputy of the Commissioner responsible for the Protection of National Minorities (Minority Ombudsman) devoted special attention to the right to education, and developed a methodology to investigate cases of segregation. In November 2014, the Parliament adopted an amendment to the Public Education Act empowering the government to issue a decree specifying further requirements for religious and minority education. In their joint report, the Ombudsman and the Minority Ombudsman expressed their concern that these “further requirements” would increase the space for cases of unlawful segregation.¹¹³ Although such a government decree has never been issued, the findings of the Minority Ombudsman are still valid: substandard minority education in full compliance with the anti-discrimination law constitutes unlawful segregation since it fails to fulfil the aim of the right to education to gain the highest attainable standard of education. Furthermore, segregation can never be justified with the aim of promoting social inclusion, not even in cases when the education is organized based on religion, belief, or nationality. If an institution organizes minority and religious education simultaneously, it has to comply with the requirements of both of them, respectively.

On May 26, 2016, the **European Commission launched an infringement procedure against Hungary over the segregation of Roma children in schools and in special education**. Despite the ruling of the European Court of Human Rights in Horváth and Kiss v. Hungary in 2013, Roma children continue to be channeled into special schools in Hungary. The Hungarian government has yet to implement the Court’s decision.^{114 115} The level of segregation has increased. According to a recent study by the Hungarian Academy of Sciences, in 2016 the segregation index increased by 10 points to 38.6.¹¹⁶ The gap between Roma and non-Roma in primary education has significantly increased,

¹¹² Ercse Kriszta – Radó Péter: A magyar közoktatásban zajló privatizáció és annak hatásai. <http://www.iskolakultura.hu/index.php/iskolakultura/article/view/32764/32236> (last access: August 30, 2019)

¹¹³ Case report AJB-6010/2014.

¹¹⁴ *Horvath and Kiss v Hungary*, Execution of Judgments, Last exam of the Committee of Ministers, December 2017, at: [http://hudoc.exec.coe.int/eng#{%22EXECIdentifier%22:\[%22004-10905%22\]}](http://hudoc.exec.coe.int/eng#{%22EXECIdentifier%22:[%22004-10905%22]}) (last access: June 24, 2019)

¹¹⁵ School segregation of Roma children shows no signs of abating, and approximately 45percent of Roma children attend schools or classes in Hungary where all or the majority of their classmates are also Roma. In 2014, 381 primary and secondary schools have been officially reported to have 50 percent or more Roma among their students. Bernard Rorke, Segregation in Hungary: the long road to infringement. *ERRC Blog*, 30 May 2016. Available at: <http://www.errc.org/blog/segregation-in-hungary-the-long-road-to-infringement/106> (last access: June 24, 2019)

¹¹⁶ A közoktatás indikátor rendszere 2017 (Indicator system of public education 2017) , MTA Közgazdaság- és Regionális Tudományi Kutatóközpont Közgazdaság-tudományi Intézet , p. 147. available at (in Hungarian) http://www.mtaki.hu/wp-content/uploads/2018/02/A_kozoktatas_indikatorrendszere_2017.pdf (last access: August 30, 2019)

and compared to their peers, 19 percent fewer Roma finish primary school.¹¹⁷ The educational gap has only been reduced in pre-school education. **A 2018 European Commission country report states that disadvantaged students have a very low chance of entering higher educational tracks, and leaving school early has increased in Hungary between 2014 and 2017 to 12.5 percent.** Experts argue that this is the result of reducing the compulsory minimum age of leaving school from 18 to 16.¹¹⁸

The lack of reliable data on Roma children in education remains the main barrier to measuring and combating segregation.¹¹⁹ A dramatic decrease in the number of multiply-disadvantaged children can be observed in recent years, yet child poverty has been increasing extensively in Hungary.¹²⁰

There have been several modifications to the public education law, restricting children's chances to access higher education. An amendment (often referred to simply as the **"Taygetos" law in the press**), passed in 2017, increases the difficulties faced by students with minor disabilities in public education. This legislation abolishes the current waiver allowing children who suffer from mild developmental disorders to drop courses in subjects they have difficulty understanding.¹²¹ The Public Education Act, as amended in the summer of 2019, without any social or professional debate, severely restricted the possibility of private learning.¹²²

Admission into Hungarian universities will require foreign language exams - which are not for free - of B2 (upper-intermediate) level or higher from 2020. Some 450 to 500 language teachers are currently missing from public education, which makes poorer students and residents of small towns or villages more vulnerable to the law's consequences. Additionally, the current public education system only teaches languages

¹¹⁷ Roma inclusion index 2015, Decade of Roma Inclusion Secretariat Foundation, p. 45. available at: <https://www.rcc.int/romaintegration2020/files/user/docs/Roma%20Inclusion%20Index%202015.pdf> (last access: August 30, 2019)

¹¹⁸ Education and training monitor 2018 Hungary, European Commission, 2018, p. 6. available at: https://ec.europa.eu/education/sites/education/files/document-library-docs/et-monitor-report-2018-hungary_en.pdf (last access: August 30, 2019)

¹¹⁹ Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in HUNGARY, 2013, p. 50., available at: http://autonomia.hu/wp-content/uploads/2016/04/civil-society-monitoring-report_en.pdf (last access: August 30, 2019)

¹²⁰ According to the assessment of the Chances for Children Association (GYERE) between 2007 and 2013 income inequalities grew significantly and increase of poverty within the total population was 14 percent, and 20 percent among children respectively. GYERE Civil Report (2013) p. 48.

¹²¹ The so-called altruist groups of the so called alternative schools tried to avoid this traumatization, and homeschooling solutions and learning groups created by a parent initiative for parents of private students. According to research, there would be 1000–1200 homeschooling families in Hungary today. Eggendorfer Noémi Cecília: Magyar otthonoktató családok vizsgálata blogok tematikus elemzésével. In: Csáky-Pallavicini Krisztina (szerk.) (2019): Otthonoktatás Magyarországon. TEPA Könyvek, ELTE-Eötvös Kiadó, Budapest, 15.o.

¹²² See the statement of Private Schools Association (Alapítványi és Magániskolák Egyesülete, AME). <http://ame.hu/ame-allasfoglalas/>

up to a level lower level than that required at university. Such a measure could close the doors to higher education for over half of the students completing high school next year.

The latest amendments to Hungarian public education laws are threatening the existence of the so called ‘alternative schools’ in Hungary.¹²³

Promising practices

Awareness-raising game – MONDO

In cooperation with a Budapest-based school for students with profound and multiple disabilities (Csillagház Általános Iskola), the HCLU created a card game called MONDO to teach children with and without disabilities about their rights. The card game is an educational tool through which children can learn to identify a number of dangerous situations and various forms of abuse (e.g. guardianship, hospitalization, bullying). They also learn how to avoid these situations, and what to do if their human rights are violated.¹²⁴

Diversity Education Working Group and School Diversity Week in 2019

One hundred and eighty-three teachers and school staff members (social workers, school psychologists) from 156 schools participated in the first School Diversity Action Week organized by the Diversity Education Working Group (DEW) in April 2019.¹²⁵ DEW is composed of organizations and programs that conduct various educational activities, and its main activity is organizing annual school diversity action weeks and publishing educational materials.¹²⁶

UNICEF National Committee for Hungary has launched a children’s rights education programme for schools in 2014. Since then nationwide trainers of the “Wise Up!” (Ébresztőóra) programme have visited more than 5000 children.

Recommendations:

- Eliminate all forms of discrimination against Roma children and children with disabilities.
- Implement inclusive methodologies in educational settings.
- Provide compulsory supervision and training on children’s rights for teachers.
- Reinstate compulsory education until the age of 18.

¹²³ <https://hungarytoday.hu/hungarian-press-dispute-public-education/>
<https://szuloihang.hu/2019/07/03/the-new-hungarian-law-which-chains-children-to-orbans-regime/> (last access: August 30, 2019)

¹²⁴ <https://tasz.hu/cikkek/legalabb-40-iskolaba-jut-el-a-mondo-jogtudatosito-program> (last access: August 30, 2019)

¹²⁵ sokszinusegoktatas.hu

¹²⁶ The Peaceful School Program, the European Parents’ Association, Amnesty International Hungary, the MONDO program of the Hungarian Civil Liberties Union (TASZ), Kék Vonal Child Crisis Foundation, Living Alone - Living in a Community, Uccu Roma Informal Educational Foundation, EJHA - Network of Human Rights Educators, Hintalovon Child Rights Foundation, Haver Jewish Educational Foundation, Getting to Know LGBT People, the Hungarian LGBT Alliance, and Háttér Society.

9. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), and 38–40)

*Refugees, unaccompanied asylum-seeking children*¹²⁷

In March 2017, new revisions to the asylum law were enacted that decreed all irregular migrants be pushed back to the Southern border. According to the amendments, it is only possible to apply for asylum in a transit zone where **asylum seekers, including children with families and unaccompanied children over the age of 14, are detained throughout the duration of the asylum request procedure.** Asylum-seeking children still have no access to adequate child-specific care or proper education. Education in the transit zones is not considered formal public education according to Act CXC of 2011 on National Public Education,¹²⁸ i.e. the transit-zone school has only a temporary operating license, and certificates issued by such institutions are not valid in Hungary. As a result of the most recent amendments, the authorities consider those in the transit zone whose asylum applications were rejected and who requested a judicial review, no longer asylum applicants but rather ‘illegal migrants’ and — except for pregnant women, or women with infants and children — the authorities deny them food. (See Annex 3, Table 3.) **Since 2014 the European Commission has initiated several infringement procedures against Hungary concerning its asylum legislation.**

Articles 37, 39 and 40: The system of juvenile justice

Children who cannot be prosecuted (as they are under the ages of 12 and 14) are subject to the CPA. Since January 1, 2015, this scope has been extended to the new legal institution of **preventive probation** (*megelőző pártfogás*), which can be applied to children or juveniles affected by criminal deviancy. Furthermore, child protection also has a role in prevention and aftercare. These tasks are prescribed by the law, however its practical realization is impaired in many ways (due to a lack of finances, personnel, physical resources or capacity).¹²⁹

The Hungarian Government announced **the Year of Child-Friendly Justice** in 2012, based on the Council of Europe’s Guidelines on child-friendly justice. There have been two regulation packages on child-friendly justice, the first in 2012, and the second in 2013, which tried to make the term and the legal institution of child-friendly justice widespread via certain amendments in specific regulations. According to the National Office for the Judiciary (Országos Bírósági Hivatal, OBH), “*Child-friendly justice is a justice system that promotes on the highest level the respect of the child’s rights, the child’s participation in*

¹²⁷ See more about refugees, unaccompanied asylum-seeker children in the Alternative report by the Hungarian Helsinki Committee.

¹²⁸ See Section 90, paragraph (9)

¹²⁹ Analysis of the Situation of Children on the Move: assessing the capacity and the adequacy of the child protection system in Hungary. <https://resourcecentre.savethechildren.net/library/analysis-situation-children-move-assessing-capacity-and-adequacy-child-protection-system> (last access: October 5, 2017)

every procedure, and the best interests of the child”.¹³⁰ Since 2012, the OBH established child-friendly justice working groups with the objective to facilitate the assertion of the child's rights during legal procedures. Moreover, there are now available trainings for judges to gain insight on the basic principles of child-friendly justice.

In 2012, the Ombudsman intended to explore the gaps between law and practice by conducting several inquiries with voluminous reports on the fulfillment of international obligations concerning child-friendly justice.¹³¹

Regarding juvenile justice, the legislation is mostly in harmony with the basic principles of EU law, but there is a gap between legal norms and practices. The lack of facilities and trainings, together with limits in budgets and personnel, cause the most serious problems at a systemic level. Children face various obstacles in seeking justice and in demanding respect for their rights including their lack of legal capacity,¹³² as well as their particular status as minors.¹³³ Their vulnerability is further exacerbated in the course of investigations or criminal proceedings by social and administrative conditions such as living in state care or belonging to a marginalized minority group. The procedural guarantees that need to be triggered for children suspected or accused in criminal proceedings indeed raise additional challenges for national justice systems in out-of-court, alternative procedures when professionals divert the children's case. The discretion of professionals (to apply for diversion) and lack of transparency are only the tip of the iceberg.

In the Hungarian legal system there is **no specific law regarding diversion**. There are no specific trainings in the field of diversion organized by governmental authorities. For lawyers representing children in criminal proceedings, there aren't any government-organized trainings — two universities offer a specialized, postgraduate training course, but they are not specifically from a criminal justice perspective.

According to the professionals, diversion is still a 'new instrument' and it depends mostly on the public prosecutor how (s)he applies it in the juveniles' cases. The only form of diversion actually called 'diversion' (*eltérés*) is dedicated to drug-related crimes. (Criminal Code art. 180.)

Regarding the criminal justice system, the UN Committee on the Rights of the Child objected to **lowering the minimum age of criminal responsibility** in its latest recommendations, but no positive changes have taken place since 2016. Moreover, from 2016 the minimum age (12) also refers to perpetrators of acts of terrorism, which is a new, distinct criminal act. However, the number of juvenile offenders has decreased. (See

¹³⁰ <https://birosag.hu/gyermekkozpontu-igazsagszolgalatas> (last access: August 30, 2019)

¹³¹ Child-friendly justice from the Ombudsman's perspective. (Available in English). <https://www.ajbh.hu/en/web/ajbh-en/reports-statements-studies>. (last access: August 26, 2019)

¹³² Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804b2cf3> (last access: November 3, 2017)

¹³³ Golub, S. and Grandjean, A.: Promoting equitable access to justice for all children. UNICEF Insights, Issue 1/2014 (2014)

Annex 4. Table 4.)

The parliament amended the Criminal Code to enforce stricter rules on sexual violence against children and to ensure enhanced protection.¹³⁴ Furthermore, **from 2017, sexual offenders charged with crimes against children are banned from any profession or work related to children.**¹³⁵ This provision allows those convicted to be kept as far away from children as possible. However, it must be pointed out that the majority of sexual violence against children remains hidden, without any procedure against the offender.

In 2017, new and increased requirements for those in charge of children's homes or reformatories were introduced,¹³⁶ while a **new training and retraining program** was also developed for the sector. The massive media interest in criminal procedures against the director of the children's home in Bicske **for sexual abuse against minors** could be a motivating factor behind these changes.

The **new Criminal Procedure Code** entered into force on July 1, 2018, inaugurating a number of reforms and safeguards to ensure the protection of children's rights. Persons under 18 are specified as 'persons requiring special treatment', providing better protection for them.

According to police statistics on the **child-friendly hearing rooms** prescribed by the 13/2018 (IV.12.) IM decree (Ministry of Justice), the regional police departments fulfill the criteria set forth by the decree, with 28 active rooms available in the country. In order to fulfil the requirements of the new criminal procedure code, long-distance hearing rooms were being set up, and 186 of the originally planned 192 have already started operating.

Paragraph 677 of the new criminal procedure code prescribes that "criminal procedures against juvenile offenders have to be carried out in accordance with ensuring the physical, emotional, ethical, mental development of the juvenile and to facilitate his or her reintegration to society and refrain from committing crime again". A safeguard for juveniles is that the new code extends the role of the defender.¹³⁷

Recommendations:

- Ensure that asylum-seeking, unaccompanied and migrant children are not administratively detained under any circumstances.
- Develop a proper age-assessment protocol and related training for professionals.
- Raise the age of criminal responsibility from 12 years to 14 years, even for the most serious crimes.

¹³⁴ Act No. 177 of 2017 on the increased criminal law protection from sexual violence committed against children under the age of 12.

¹³⁵ Act No. 149 of 2017 on the amendment of certain laws required for the increased protection of children.

¹³⁶ Act No. 95 of 2017 on the amendment of Act 31 of 1997 on the protection of children and the administration of guardianship in order to strengthen the child protection system, and of other acts

¹³⁷ Hıntalovon Child Rights Foundation, Child Rights Report 2018.

- Ensure a wide application of restorative justice in cases involving juvenile offenders.
- Increase the number of psychologists available for children in conflict with the law, and provide reintegration measures based on the individual needs of each child.

Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

Hungary has become more visible as a country of origin for victims of trafficking.

Based on the latest statistics on Trafficking in Human Beings (THB), carried out by the European Commission, the top five EU countries of citizenship of registered victims in 2015–2016 were Romania, *Hungary*, the Netherlands, Poland and Bulgaria.¹³⁸

The latest Fundamental Rights Agency report found that Hungary is the EU member state with the highest number of registered child victims of trafficking in 2015–2016; out of 2206 registered child victims, 647 were Hungarian.¹³⁹ In Hungary, the number of identified child (and adult) victims of trafficking is very low.¹⁴⁰ However, the number of children sanctioned for committing the offence of prostitution is very high,¹⁴¹ with detention of these children moving between 8 and 15 percent of the total number of sanctions for offences linked to prostitution.

The growth of human trafficking is related not only to the trafficking of human beings across international borders, but also to trafficking within Hungary. **As such, internal trafficking has become an increasing concern.** Current trends indicate that trafficking victims are moved from areas of high unemployment in Eastern Hungary to Western Hungary. In 2017, the government identified 44 victims of trafficking in Hungary, while Hungarian NGOs reported assisting approximately 143 trafficking victims: 77 female, 26 male, and **40 minors (although national criminal statistics show a much lower number of victims).**¹⁴² Due to the range of trainings and workshops on the phenomenon

¹³⁸ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_data-collection-study.pdf (last access: August 16, 2019)

¹³⁹ *Children Deprived of Parental Care Found in an EU Member State Other than their Own. A Guide to Enhance Child Protection Focusing on Victims of Trafficking.* Handbook. European Union Agency for Fundamental Rights, 2019. Retrieved from: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-children-deprived-of-parental-care_en.pdf (August 22, 2019).

¹⁴⁰ This is due to problems associated with the lack of identification, lack of harmony among the statistical systems, lack of special protection concerning child victims of trafficking. In: Vidra Zsuzsa, Baracsi Kitti, Katona Noémi, Sebhelyi Viktória (2015): *Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing* Central European University, Center for Policy Studies (CEU CPS) Retrieved from: <https://publications.ceu.edu/sites/default/files/publications/cps-book-child-trafficking-in-hungary-2015.pdf> (August 22, 2019).

¹⁴¹ “Banned prostitution”: Section 172 of Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registry System; “Ban of call for sexual services”: Section 184 of Act II of 2012 on Petty Offences, Petty Offence Procedure and the Petty Offence Registry System.

¹⁴² <http://www.iom.hu/migration-issues-hungary> (last access: June 4, 2019).

provided by NGOs and the National Police, what professionals know about child trafficking varies greatly. Furthermore, there is no unified protocol on identifying and assisting child victims of trafficking.¹⁴³ The Család Barát Ország (Family-Friendly Country, CSBO) recently launched a training program for 5,000 members of the child protection reporting system on sensitization and identification of child victims of human trafficking.

Based on the latest Trafficking in Persons (TIP) Report (2019), the **Government of Hungary does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.** These efforts have included issuing new prosecutorial guidelines related to trafficking cases, launching services at four halfway houses, and adopting a national action plan.¹⁴⁴ Government officials did not adequately screen for trafficking indicators among vulnerable populations. Services for victims remained scarce, uncoordinated, and inadequate, especially for children – for whom there were no dedicated shelters – and for foreigners. The law authorizes the detention of child sex trafficking victims; children exploited in sex trafficking have been arrested and prosecuted as misdemeanor offenders, and seven children were sentenced to detention based on their exploitation in sex trafficking.¹⁴⁵

An ex-officio **follow-up investigation** was launched by the **Ombudsman (No. AJB-1485/ 2018) to protect the rights of children who become victims of prostitution** and the possible means of preventing this from happening. The Ombudsman emphasized that rather than pushing police proceedings, staff working in the child protection system should be strengthened, better prepared to recognize endangerment, and trained to take meaningful action against it in time. In addition to proposing a high number of legislative and practical measures, the report called attention to best practices. The report deemed the protection of rights the state's obligation, and therefore the state should provide efficient support to children who are in such a situation and who thus become victims. The threat of becoming a victim of prostitution may dramatically increase when children leave or escape from care institutions. There is no comprehensive campaign aimed at practical solutions, nor training programs, additional training courses, guidelines or protocols which would make the experts' work easier. **The Ombudsman pointed out that despite some slow progress, no genuine achievements can be made in suppressing this phenomenon due to the lack of a state action package aimed at the elimination of child prostitution.** In other words, no real progress can be made without additional, targeted training of child protection experts and comprehensive preventive measures, i.e. an action plan that is much more intensive than the current one.¹⁴⁶

¹⁴³ Vidra Zsuzsa, Baracsi Kitti, Katona Noémi, Sebhelyi Viktória (2015): *Child Trafficking in Hungary*.

¹⁴⁴ Decision 1125/2019 (III.13.) of the Government on the Measures Necessary to Increase the Efficiency of Combatting Human Trafficking. (last access: August 30, 2019)

¹⁴⁵ <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/hungary/> (last access: August 15, 2019).

¹⁴⁶ Annual Report of the Ombudsman (2018): 17–18.

<https://www.ajbh.hu/documents/14315/2993057/Report+on+the+Activities+of+the+Commissioner+for+Fundamental+Rights+and+his+Deputies+2018/ef5f4ffa-ef99-8cf8-e4d3-47ebb39b1026?version=1.0> (Accessed June 4 2019).

Recommendations:

- Provide ongoing training at the system level with unified training materials and supervised staff at children's homes.
- Provide psychosocial therapy, counseling and group therapy for potential child victims, and personal mentoring projects for boys considering pimping in order to redirect their career paths. (e.g. One Hundred Black Men programs in the UK or USA).
- Design strictly the profiles of children's homes and classify for specific target groups rather than mixing children with different mental and physical developmental needs.
- Establish an after-care home for young people aged 18–24, staffed with professionals specializing in helping avoid re-victimization, and helping children successfully integrate into society.
- Consider child prostitution as child abuse in all cases in the criminal code.
- Treat children involved in prostitution as victims, not offenders.
- Emphasize the identification of potential child victims of trafficking and strengthen it among the professionals of the child protection system.

Follow-up to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

One Hungarian NGO has been organizing military leisure activities for children aged 10–18. Military and patriotic thoughts and education is an important part of governmental communication, however, cadet training is mostly unknown. **The Patriotic School** (Honvédsuli) program of this NGO “aims to help children understand that protecting our country is the foundation of our nation”.¹⁴⁷ The directors of Honvédsuli — a pedagogue, a child protection service professional, and a former French Legionnaire — provide patriotic training for young people. From a children's rights perspective, the most serious concern with Honvédsuli is that children are given real weapons and training that could

¹⁴⁷ <https://www.honvedsuli.hu> (last access: August 14, 2019)

be used in armed conflicts.¹⁴⁸ It is also uncertain if this “school” infringes on the rights of children.

The recommendation at the last constructive dialogue with the Committee asked for **national level segregated data collection on children involved in armed conflict, but such data is not available**. The lack of an early identification method of children involved in armed conflict is still an issue, therefore the number of asylum-seeking children who were used or recruited in armed conflict is not accessible. Based on international data, we can assume that most of the children who might have been involved in armed conflict arrived to Hungary from Afghanistan. But unfortunately, while there are some questions covering the issue of involvement in armed conflict asked during the refugee determination interviews, the public does not have access to the answers to these questions according to the Act on Asylum. On the other hand, the legal background of refugee determination requires that one feared for their life in armed conflict in order to be entitled for international subsidiary protection.¹⁴⁹ Any further detail about the type or level of involvement in armed conflict may cause self-incrimination. **Regarding integration and rehabilitation of children, there is no legal ground to receive any favorable treatment, support, or aid on the basis of previous involvement in armed conflict. They are treated as asylum-seekers, refugees or beneficiaries of subsidiary protection.**

The recommendation on legislative prohibition of exporting arms to states concerned in issues related to child soldiers did not happen, Act CIX of 2005 on authorizing the manufacture of military equipment and services still contains the general rule in Section 2/B. (1) that the concerned authority take into account the international obligation of the state. The Governmental Decree 301/2005. (XII. 23.) on the implementation of Act CIX of 2005 prescribes that the authority shall inform the Ministry of Defense, who is responsible for the implementation of OPAC.

Recommendations:

- Adopt legal measures in order to prohibit exporting arms.
- Collect data on children involved in armed conflict based on the last Concluding Observations of the Committee.

¹⁴⁸ See photos of the Capa-prize winning photographer about the Patriotic School here: <https://www.theguardian.com/artanddesign/gallery/2019/jul/27/campfires-kisses-and-rifles-inside-hungary-army-camps-for-kids?fbclid=IwAR09RWpM5ZZFvj2YQ993KTpwWtU31622kDRD7P3H5-vjmotgA51A61kCPrQ> (last access: August 15, 2019)

¹⁴⁹<https://www.unhcr.org/publications/legal/58359afe7/unhcr-guidelines-international-protection-12-claims-refugee-status-related.html> point 92. The lack of evidence of armed groups does not hinder the possibility or receive protection.

Annexes

Annex 1.

Table 1. Number of children in state care (2010-2018). Source: Hungarian Central Statistical Office.¹⁵⁰

Year	0-2 years of age	3-5 years of age	6-13 years of age	14-17 years of age	Total
2010	1459	1894	7615	6824	17,792
2011	1524	1975	7713	7075	18,287
2012	1690	2006	7824	6944	18,464
2013	1916	1997	7972	6789	18,674
2014	2178	2136	8337	7484	20,135
2015	2045	2290	8558	7378	20,271
2016	2347	2512	8671	7021	20,551
2017	2442	2611	8956	6939	20,948
2018	2579	2640	9195	6796	21,210

Table 2. Percentage of children living with foster parents (2014-2017). Source: Hungarian Central Statistical Office.

Year	0-2 years of age	3-5 years of age	6-11 years of age	12-17 years of age
2014	85,30 %	90,92%	82,32%	44,24%
2015	86,93%	92,00%	81,58%	43,49%
2016	87,31 %	92,98%	82,00%	45,25%
2017	86,99%	92,71%	82,26%	47,26%

¹⁵⁰https://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_fsg013.html (last access: August 13, 2019)

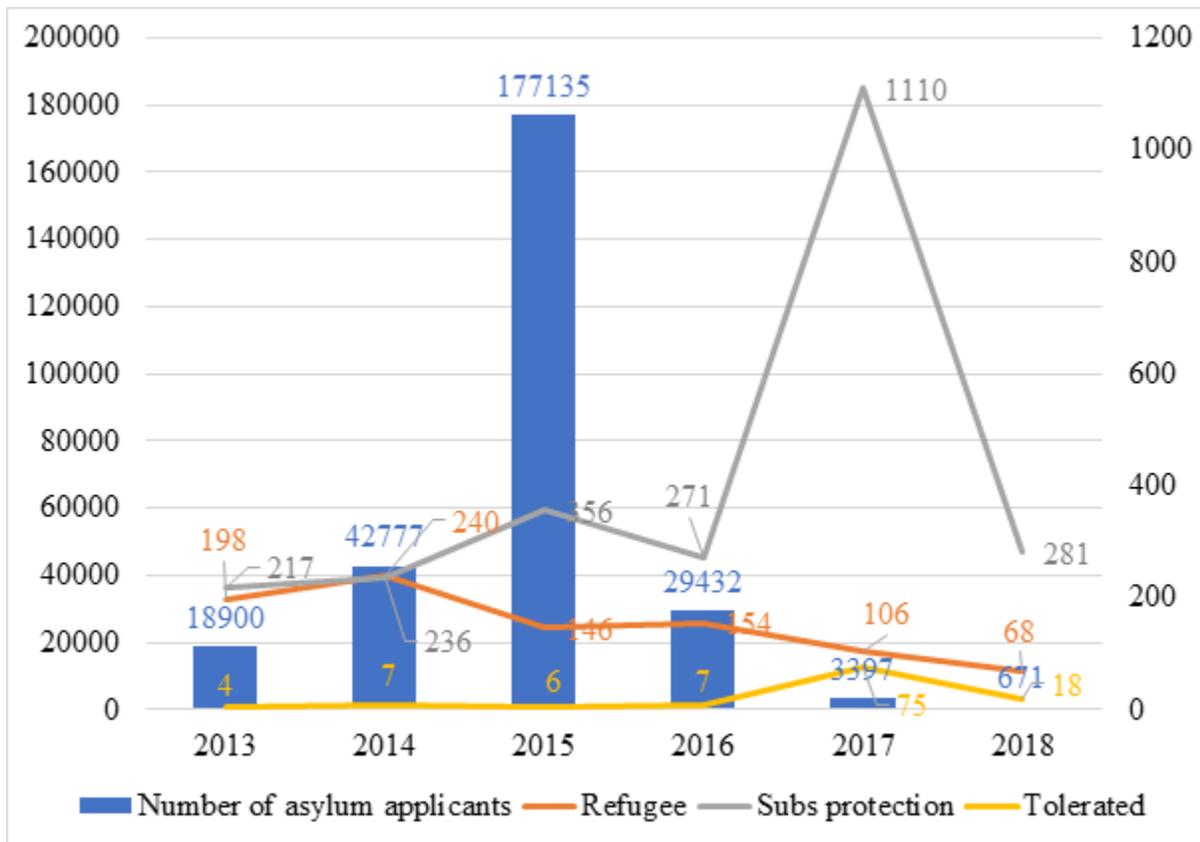
Annex 2. - Calls related to de-institutionalisation

Calls for Proposals for EFOP (HRDOP) 2.1.1 – 16. and VEKOP. -6.3.1-15 were published in April and July 2016 seeking applications for funding to refurbish and expand the capacities of children’s institutions. The EFOP (HRDOP) 2.1.1 – 16. tender made available 2.94 billion HUF (approximately 9.5 million EUR) for this purpose, 85 % financed by the European Regional and Development Fund, while the VEKOP. -6.3.1-15 tender a further 1,26 billion HUF (approx. 4 million EUR). The objectives of the calls were to deinstitutionalise children from large-scale homes to smaller residential facilities, to complete the process of the reconstruction and modernisation of small-capacity residential facilities for children in state care and the development of capacities for children with particular, special or dual needs on the basis of existing places in children’s homes (by increasing the places reserved for children with disabilities without increasing the total number of places).

Under the EFOP 2.1.1 – 16. tender 23 children’s homes have been selected in 2017, with the latest refurbishment project to be finished no later than 30 June 2020. Based on the brief project summaries available online, the stated purposes of the projects vary: the big institution in Szikszó for example will transfer 48 children out of the total 96 residents to 4 smaller, newly built group homes (hosting 12 children each), while the institution in Nagybarca, which houses 76 children with intellectual disabilities, will only be refurbished. Some institutions will extend their capacities with the creation of additional places: a children’s home for children with psychosocial disabilities in Zalaegerszeg will create 24 additional places besides its 48 existing ones, while the one in Kalocsa will create 8 additional places. The creation of these 32 additional places is due to the closure of another home in Fót, which means that the 32 places which ceased to exist in Fót will have to be recreated in the Zalaegerszeg and Kalocsa institutions. The institution in Tordas, which already has 272 residents who have intellectual and/or psychosocial disabilities, plans to expand its capacity with 10 places for children with intellectual and psychosocial disabilities with the help of financing from this tender. An additional 10 children homes in Budapest and Pest County have been selected under the VEKOP. - 6.3.1-15 tender. Based on the brief project summaries available online, the purposes of the projects are either to refurbish existing children homes (even homes with as many as 60 places) or to build new ones which are considered to be more family-like or community-based by the Government, but in fact are just smaller residential institutions with capacities of 24 and 36 places.

Project summaries available through a search engine at:
https://www.palyazat.gov.hu/tamogatott_projektkereso

Annex 3. Table 3. Number of asylum-applications with outcomes (2013-2018) Source: National Directorate-General of Aliens Policing



Annex 4. Table 3. The number of minors and juveniles associated with the justice system as offenders (2013-2017) (Source: ENYÜBS - Unified Statistical System of Investigations and Prosecutions)

Age group	2013	2014	2015	2016	2017
Minor (0–13)	2197	1488	1375	1662	1409
Juvenile (14–17)	10471	8806	7872	7675	6492

Annex 5. Table 4: Number of children involved in prostitution as victims or offenders
 (Source: ENYÜBS- Unified Statistical System of Investigations and Prosecutions)

	Number of (registered) child victims of trafficking in Hungary	Number of children committed the offence of prostitution	Type of sanctions and measures children (juveniles) receive for the offence of prostitution:		
			Detention	Fine (local or financial)	Warning
2018	0	59 (59 girls)	7	12	30
2017	3 (3 girls)	75 (73 girls, 2 boys)	5	28	34
2016	0	88 (85 girls, 3 boys)	12	17	42
2015	3 (3 girls)	101 (100 girls, 1 boy)	9	30	44
2014	1 (1 girl)	272 (271 girls, 1 boy)	53	67	129
2013	0	n.a.	n.a.	n.a.	n.a.