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## **National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1**

**Hungary\***

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## I. Methodology and consultation process

1. In preparation for the Universal Periodic Review of the Republic of Hungary, the Ministry of Foreign Affairs of the Republic of Hungary launched a series of human rights conferences in 2009 with the participation of government officials, non-governmental organisations and independent experts. The purpose of these conferences was to conduct a general review of the situation of respect for human rights in Hungary: stocktaking, identification of achievements as well as deficiencies. Altogether 8 conferences were held until the end of 2010 dedicated to specific areas of human rights.

2. On the basis of the above consultation process and availing of the conclusions and recommendations formulated at these conferences, the present report was prepared by the Ministry of Public Administration and Justice, the Ministry of Interior, the Ministry of National Resources, the Ministry of National Economy, the Office of the Hungarian Parliamentary Commissioner for Civil Rights, the Equal Treatment Authority, also contributed and compiled by the Ministry of Foreign Affairs.

## II. Normative and institutional framework

### A. Constitution

3. The present Hungarian Constitution with its new content drafted as a consequence of the revolution of rule of law in 1989 was meant to be only a transitional one and stay in force until the new Constitution of the consolidated democracy would be enacted. The objective of a new Constitution has been a nationally supported constant goal since the democratic transition in 1989, however, that would have required two-third majority of the votes of the MPs, and political context has not been conducive to the adoption of a new Constitution until recently. The Parliament of Hungary elected in April 2010, wherein the governing parties hold a two-third majority, has set itself the objective of establishing a new Constitution which would formally conclude the democratic transition and lay the foundations for the forthcoming decades.

4. An *ad-hoc* parliamentary committee was set up in June 2010 with a mandate to submit a draft resolution on the fundamental principles of a new Constitution to the plenary of the Parliament by 31 December 2010. The *ad-hoc* committee of 45 MPs, whose membership reflects the composition of the Parliament, invited the competent state bodies, non-governmental organizations, scientific think-tanks and the civil society to submit their proposals and views. Website of the *ad-hoc* committee has been made available for any private person or civil organization to publicly forward their recommendations concerning the drafting process or the content of the new basic law with the goal to ensure full transparency, openness and a broad participation in the process.

5. Six working groups were set up in order to ensure a systematic processing of the positions covering all aspects of the Constitution. The partial concepts prepared by those working groups have been consolidated into a single text with the assistance of external experts. The overall draft concept and its elements were subject of a thorough debate. Intensive exchange of views took place in the printed and electronic media, further supplemented by conferences organised by the Parliament, the Hungarian Academy of Sciences, universities, foundations and civil organisations. The Parliament is to dedicate approximately a full month session exclusively to the debate on the new basic law, thus providing the opportunity for a careful preparation of the new Constitution.

6. The concept proposes a shorter Constitution compared to the one currently in force, a solemn one of a truly fundamental nature. The Constitution's preamble and the chapter entitled *General provisions* will set out the fundamental constitutional values. The commitment of Hungary to cooperate with all peoples of the world will continue to be confirmed in this part of the Constitution.

7. Protection of fundamental human rights is a substantial aspect of the new Constitution also reflected by its structure whereby the chapter on fundamental rights and obligations will be moved right after the *General provisions*. The new Constitution will continue to contain all fundamental human rights currently protected by the Constitution in force. Current Constitution declares that Hungary respects the human rights of all persons in the country without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds whatsoever and the law provides for strict punishment of discrimination. Any restriction of such rights remains to be possible only in accordance with international treaties as well as the jurisprudence of the Constitutional Court. The concept does not foresee any major change in the constitutional arrangement of the state structure. It maintains the form of parliamentary government and guarantees separation of powers.

8. A long-standing default of the present Constitution would be remedied by inserting fundamental rules on public finances and the principles of budget law in the basic law. As regards the judiciary, the concept provides for the setting up of administrative courts ensuring more effective supervision over the administration. Status and power of the Constitutional Court would continue to be provided by a separate "qualified" act, as is the case currently.

9. The Constitutional Court of Hungary supervises over the constitutionality of legal acts. In international comparison, it has a remarkably wide and extensive jurisdiction. In the first years following the democratic transition of 1989–1990 jurisprudence developed by the Constitutional Court had a particularly dynamic effect on the development of the Parliament's legislation.

## **B. Parliamentary Commissioner for Civil Rights**

10. The Parliamentary Commissioner for Civil Rights (Ombudsman) is responsible for investigating or initiating the investigation of cases involving the infringement of constitutional rights which come to his attention and initiating general or specific measures for the remedy thereof. The Commissioner is entitled to investigate citizens' complaints and can also launch *ex officio* investigations relating to approximately sixty constitutional fundamental rights, except for the protection of national and ethnic minorities' rights and information rights since the latter two categories of rights are specifically assigned to specialized ombudsmen. As regards the volume of the files, in 2010, the Commissioner has dealt with almost 8000 cases covering a wide range and various aspects of human rights.

11. The Ombudsman may initiate general or specific actions to remedy improprieties concerning the procedures of authorities and public service providers. He thus commonly requests action to be taken by the head of the organisation concerned. Formulation of recommendation is another frequently applicable tool at his disposal. He may propose an amendment to a particular provision, the withdrawal thereof or provision of missing regulation. He may also initiate lodging a complaint with the prosecutor or conducting a disciplinary or infringement procedure. If a case concerns criminal act, the Ombudsman is obliged to initiate criminal procedure. The Commissioner may furthermore initiate procedures before the Constitutional Court. Publicity and arguing are certainly the most effective tools of the Parliamentary Commissioner. In case of grave impropriety or affection of large group of citizens, the Commissioner may promptly turn to the Parliament.

The Ombudsman presents his regular annual reports to the Parliament, but is also engaged in special projects such as a project concerning homeless people, children's rights project or public transportation project adopting a pro-active approach for the protection of human rights.

12. Besides the activities of the Parliamentary Commissioner for Civil Rights, a Parliamentary Commissioner for Data Protection and Freedom of Information, a Parliamentary Commissioner for National and Ethnic Minorities Rights and a Parliamentary Commissioner for Future Generations are also contributing to the protection and promotion of human rights in Hungary.

### **C. Equal Treatment Authority**

13. The Equal Treatment Authority (ETA) is an independent administrative body that was established in 2005 to protect, enforce and promote equality and the right to equal treatment by monitoring the observance of Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (hereafter: "Equal Treatment Act"). ETA operates under the direction of the Minister of Public Administration and Justice; however neither the Government nor the Ministry may instruct the Authority when it performs its duty under the Equal Treatment Act. The decisions of ETA are legally binding and enforceable, cannot be altered or set aside by the Government or public authorities. The Municipal Court has exclusive jurisdiction over the appeals against the decisions of ETA. These provisions guarantee *de iure* and *de facto* independence. The Equal Treatment Act sets up an advisory body assisting ETA with issues of strategic importance. The board consists of anti-discrimination experts. ETA operates with a broad mandate, scrutinizes the acts of public authorities in any of their legal relationships and the acts of private actors in their specific relationships (employment, goods and services, etc.) whether they are in line with the principle of equal treatment.

14. ETA can initiate proceedings upon individual complaints or *actio popularis* submitted by NGOs and other stakeholders or *ex officio*. ETA deals with unequal treatment (direct/ indirect discrimination, segregation, harassment, victimization) involving gender; racial origin; colour; nationality; national or ethnic origin; mother tongue; disability; state of health; religious or ideological conviction; political or other opinion; family status; maternity or paternity; sexual orientation; sexual identity; age; social origin; financial status; part-time, temporary and other types of employment contract; the membership of an organisation representing employees' interests and any other status, attribute or characteristic. Should the right to equal treatment have been violated, ETA may order the elimination of the situation concerned, prohibit further continuation of the conduct concerned; publish its decision or impose a fine.

## **III. Achievements and challenges in the protection and promotion of human rights**

### **A. Equality and non-discrimination**

#### **1. Education**

15. Prohibition of discrimination and equal treatment in public education are provided by Act LXXIX of 1993 on Public Education. Any discriminative measure or measures violating the interest of the child taken by institutions, schools or their maintainers are considered null and void. A plea for nullity may be made by anyone and without any

deadline. Legality of the measure has to be justified by the party adopting the measure concerned. Prohibition of segregation is a fundamental provision of the Act on Public Education. The National Core Curriculum contains the detailed regulations on promoting equal opportunities in education. The Public Education Equal Opportunity Action Plan is an obligation for the schools and the municipalities and also a condition for support both from EU and national sources. Definition of disadvantage was inserted in the Public Education Act in 2003.<sup>1</sup> Target groups of equal opportunity programmes in education are also specified thereby. According to the Equal Treatment Act, the Educational Authority has the right to carry out audits on observing regulations on equal treatment and may take the following measures: call upon the school head to remedy the situation, initiate procedures, impose a fine or initiate a court procedure.

16. Despite appropriate legislation and concerted, complex action, lack of equality in access to quality education, or for certain groups of pupils (pupils facing multiple disadvantages, Roma pupils) and for certain types of schools still exists. Due to the new policy in education, hidden segregation is gradually reducing from 2008. Problems characteristic of a significant proportion of the Roma minority are not due mostly to their ethnic origin, but to their social and health-related status.

## **2. Employment**

17. The principle of equal pay for work of equal value without any discrimination is declared by the Constitution. The Labour Code provides for detailed regulation of this principle and provides for remedies against violations thereof.

18. According to the Equal Treatment Act, employers are prohibited to make any distinction, such as in relation to access to work, especially in public job advertisements, hiring, and with regard to the conditions of employment; or a disposition made before the establishment of the employment relationship or other relationship related to work, related to the procedure facilitating the establishment of such a relationship; in establishing and terminating the employment relationship or other relationship related to work; in relation to any training before or during the work; as well as in determining and providing working conditions.<sup>2</sup>

19. In 2007, the Parliament adopted a resolution on the Decade of Roma Inclusion Program Strategic Plan. The tasks set out by the Strategic Plan include among others the improvement of employment. Pursuant to a decree in 1996 vocational training, preparation for higher education and completion of elementary studies are subsidized, if the participation is organized or financed by Roma minority self-governments or Roma civil organizations.

20. To promote the rights of disabled people, Act XXVI of 1998 on the rights and equal opportunities of persons with disabilities stipulates, among others, the right to integrated employment, or, in the lack thereof, to sheltered employment.

21. According to the concept of the new Civil Code, regulation of legal capacity and guardianship will be amended in the future. The currently existing deficiency of employment of a person under guardianship would be addressed thereby.

## **3. Gender equality**

22. The general prohibition of discrimination on the basis of sex is stipulated in the Constitution. Reference is also made to the Equal Treatment Act in this respect, as well, defining the concept of various types of discrimination. A “National Strategy for the Promotion of Gender Equality – Guidelines and Goals 2010 – 2021” was adopted by Government Resolution 1004 in 2010. The Strategy identifies priorities which require firm government action to achieve real equality between women and men.

*Violence against women*

23. Hungary has developed a complex institutional system funded from governmental sources for the victims of domestic violence. It includes Regional Crisis Management Network, a toll-free National Crisis Management and Information Telephone Service, and hosting institutions called Secret Shelter. Media appearance, organization of national public campaigns, conferences and regular roundtable discussions are also important means to raise public awareness. As a result of cooperation of the Government, local governments and non-governmental organizations, municipal shelter homes are operated where the insulted person can stay for up to five years supported by professional assistance.

*Domestic violence as a sui generis crime in the Criminal Code*

24. The Hungarian Criminal Code does not include „violence in the family” as a separate, sui generis statutory provision. However, this does not mean lack of punishment. The Criminal Code and the Act on Administrative Offences cover all acts falling under the scope of “violence in the family”. It includes homicide, abortion, battery, coercion, violation of personal freedom, harassment, rape, sexual assault. Act on Administrative Offences imposes punishments – among others – for breach of domicile, libel or administrative offences against property. The victims can be third persons and family members, as well.<sup>3</sup>

*Restraining orders*

25. Act on the Criminal Proceedings provides for the rules on restraining as a coercive measure. Originally the maximum period of such coercive measure was 30 days, but it was extended up to 60 days in 2009.

*Amendments to regulations on rape*

26. According to the Criminal Code, rape is committed by a person who forces another person by violence or imminent duress against her or his life or bodily integrity for having sexual intercourse, or uses the incapacity of the person for defence or for the manifestation of her/his will for sexual intercourse. Accordingly, the Hungarian legal system requires violence or qualified threat (imminent duress against life or bodily integrity) to ascertain such crime.<sup>4</sup>

*Homebirth*

27. According to the fundamental right to self-determination, pregnant women have the right to decide on the place of delivery (at home, in a hospital or a birth centre), if they do not endanger the life and health of the baby by this choice. Infrastructure and personal assistance of obstetrical care is well developed in Hungary offering several alternative ways of giving birth. Approximately 100-150 persons a year opt for giving birth at home. Since there existed a legal gap in the regulation of homebirth, the State Secretary for Health of the Ministry of National Resources is currently working on regulating professional, medical and technical minimum requirements for homebirth. The draft regulation lays down in detail the personal conditions of giving birth outside health-care facilities, rules on responsibility, legal grounds for exclusion, measures in emergency situations with the aim of protecting the mother, the foetus/baby and the midwife.

*Forced sterilization*

28. Patient’s rights in healthcare services are protected by law. Personal freedom and the right to self-determination as a fundamental right can only be restricted on justified health grounds and under conditions laid down by the Health Act. Sterilization on health grounds



based on medical indication shall only be carried out, if the woman previously gives a duly recorded informed consent to the procedure. Taking into account the recommendations of the CEDAW Committee, the legislation on sterilization has been amended recently. Accordingly, difference is made between persons of legal capacity, incompetent persons or persons with limited capacity; the waiting time for women under the age of 26 was extended to 6 months instead of 3; and application for sterilization should be submitted in a public/notarial document or in a private document of probative value. Conditions of sterilization became stricter, since sterilization on health grounds shall only be carried out, if other form of contraception is not possible or not applicable on health reasons and the pregnancy would endanger the life, the physical integrity or the health of the woman, or the future child would probably be disabled.

#### **4. Rights of the child**

29. Child welfare system operates well in Hungary in order to assist families to bring up their children. Act XXXI of 1997 on the protection of children and on public guardianship administration provides for the legal basis for safeguarding children's rights. The basic care provision contributes to the promotion of physical, intellectual, emotional and moral development and welfare of the child, to upbringing in a family, to the prevention of danger, the elimination of already existing danger, and the prevention of removal of the child from the family. It should be emphasized that a child cannot be removed from his or her own family, particularly rarely for financial reasons, unless there is no possibility to be brought up in family. Child welfare services are supervised by the guardianship office. It should be mentioned that unaccompanied children seeking asylum shall be covered by the child protection system as of May 2011, instead of the immigration system currently in place.

30. A major substantial change in the Hungarian tax regime has been recently adopted introducing the family tax-system. Besides, a complex system of financial assistance is also prevailing. Children in need receive significant benefits, among others free meal and free books for school. As early childhood is crucial from the perspective of socio-cultural integration, the state launched pre-schooling support to integrate the most needy children not enrolled in any institution for their better performance later at school. Even though pre-schools can be attended 'free of charge', children mostly in need thereof are never enrolled due to lack of money. Pre-schooling support is a cash transfer conditional to regular pre-school attendance of children.<sup>5</sup>

31. Overrepresentation of Roma children may occur in children's homes. In many cases the conduct of life of the parents is the reason of endangerment of the child. Since Roma children have more siblings (even 8–10), the placement of them into family-like care may be difficult. Age factor appears as another obstacle, since 13–14–15 year old children refuse to live with another family, once abandoned by their own family.

#### **5. Legislation on "hate crimes"**

32. The Criminal Code regulates several independent crimes in connection with hate crimes. Hate expressed in violence is penalized under "violence against a member of the community" Accordingly, any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial or religious group, or of certain groups of the population, or compels him by applying coercion or duress to do, not to do, or to endure something, is punishable by imprisonment up to five years. The punishment can be more severe if the offence is committed in firearms; in arms; causing a considerable injury of interest; with the torment of the injured party; within a group; in criminal conspiracy. The preparatory act is also punishable.

33. If the aim of the perpetration is to hurt another person because of his or her nationality, the crime is committed with “base motive or purpose”, which is an aggravating element in connection with many offences such as homicide battery, violation of personal freedom, defamation, unlawful detention. Incitement to hatred is also criminalised, any person who incites to hatred before great publicity against the Hungarian nation; any national, ethnic, racial, religious group or certain groups of the population is punishable by imprisonment for up to three years.

34. According to the interpretation of the Constitutional Court, “Hatred is one of the most extreme negative feelings as an intense hostile emotion. <Incitement> is not the expression of some unfavourable and offensive opinion, but such a virulent outburst which is capable of whipping up such intense emotions in the majority of people which, upon giving rise to hatred, can result in the disturbance of the social order and peace. This way, criticism, disapproval, objections or even offensive declarations do not constitute incitement (...).” Several initiatives were made to broaden the scope of hate crimes, however, the Constitutional Court nullified them. According to the interpretation of the Constitutional Court, freedom of expression could only be restricted on very limited ground.

35. A new crime on “denial of holocaust” was inserted by the Parliament in the Criminal Code in 2010. Likewise any person who publicly denies the crime of genocide and other crimes committed against humanity by national socialist and communist regimes, or expresses any doubt or implies that it is insignificant is guilty of an offence punishable by imprisonment for up to three years.

36. A new administrative offence was also introduced in 2010, which is committed by conducting an activity which was declared illegal in a decision of the court on the disbanding of a civil organisation or participating in the activity of a civil organisation after its disbanding; or wearing a uniform or vestment of a civil organisation disbanded by the court in a public event, or reminiscent of a uniform or vestment of a civil organisation disbanded by the court.

37. Severity of the punishment of the criminal offence “abuse of the right of association” was recently increased. This crime can be committed by participating in a civil organization or its leadership that has been disbanded by the court, or being involved in aiding such a civil organization by providing the means for guidance or raising funds to finance such organization.

## **6. Roma community**

38. To eliminate accumulation of disadvantages concerning the Roma community, integrated interventions covering all fields of economy, employment, education, culture, health care, living conditions and social services simultaneously as well as complex regional programmes and anti-discrimination actions are required – primarily in the micro-regions with multiple disadvantages densely inhabited by the Roma.

### *Employment*

39. The level of employment of the Roma population significantly lags behind the national average. Estimates reveal that the level of employment of the Roma is less than half of the non-Roma population; their rate of unemployment is three-five times higher; the number of dependants per capita is three times higher. According to the representative national Roma survey made in 2003, the rate of employment of the Roma population of working age is less than half of the relevant rate of the total population. The average rate of unemployment of the Roma is 40%, but in certain especially underdeveloped, disadvantaged regions, it reaches 90%. The extremely poor labour market situation of the

Roma can be attributed to several factors reinforcing each other and producing their effect simultaneously. The proportion of persons who have completed exclusively primary school is much higher than the average; those with skilled worker's certificate become outdated due to elimination of certain branches of industry, which makes it difficult for them to find job. A considerable part of them live in the eastern, north-eastern, south-eastern regions of the country disadvantaged in the labour market, at settlements having poor public transport, scarcely offering any job opportunities, under unworthy and unhealthy living conditions.

40. Hungary has a range of legislation promoting equal treatment and equal opportunities in the field of employment as well. Amendment of the Labour Code in 2001 provided for a non-discriminative environment in the labour market. While legal framework and procedures ensure equal treatment, low education level, low qualifications, living in economically disadvantaged regions, poor housing conditions and social circumstances make the entry into the labour market difficult for a large proportion of the Roma population, but not only the Roma population.

41. To increase the labour market activity of disadvantaged people, including the Roma, many programmes were launched on national or Structural Fund financing. In most of these programmes, the target group was defined on the basis of socio-economic disadvantages instead of ethnic grounds. Employment programmes run by public services or NGOs offered a wide range of labour-market services for the activization, including training, mentoring, employment subsidies and carrier counselling. It is important to note though that success of individuals involved employment programmes is highly influenced by the local economic trends and labour-market demand. The unfavourable economic climate due to the crisis limited the efficiency of these programmes for the last couple of years.

42. Activities carried out within the framework of priority 1 of the Social Renewal Operational Programme aim to improve the employability of unemployed and inactive people of working age, and to facilitate their return to the labour market. When designing and implementing the employment programmes and services, the particular situation, needs and possibilities of each target group is taken into account. Special attention is paid to combating the labour market exclusion of the Roma population. The Roma population is targeted alongside the characteristics by which their disadvantages may be effectively detected. Such characteristics include labour market status (unemployment, economic inactivity), qualification level and domicile.<sup>6</sup>

#### **National funds for the employment of Roma**

*Decentralised allocation from the*

*Labour Market Fund (MPA) –*

*Active assets – Regional*

*employment centres*

2007-2009

*paid to beneficiaries*

*performance indicators*

support for public interest work	96,945,255 €	Altogether 146,705 people; of which the estimated share of Romas is at least 50%
training	96,193,431 €	Number of participants Altogether 118,715 people (no data available on the current share of Romas)
supports for the increase of employment	90,624,088 €	Number of participants Altogether 104,853 people (no data available on the current share of Romas)
public works programmes	170,489,051 €	Number of participants Altogether 71,371 people; of which the estimated share of Romas is: 45–50%

*Education*

43. Reference is made to the introduction of an integrated method of education as a substantial reform beginning in 2003 as described under the general chapter on Education above.

44. A comprehensive intervention financed from state budget promotes equal opportunities in education from 2007. It contains three components: first focuses on the integration and skills development courses at primary and secondary education, the second supports pre-school development programmes and the third provides supplementary remuneration for teachers. Year to year, not only the number of involved childrens is increasing, but also the participation of institutions. By 2010 the programme covered almost 300,000 pupils and reached approximately 13,000 teachers in 1,800 schools/insititions.

45. National financial instruments support scholarship schemes, too. The most important is “Útravaló (Haversack)” Scholarship primarily designed to promote equal opportunities for severely underprivileged students, to improve their chances to complete secondary and higher education, to learn a profession or to become college or university graduates as well as to provide talent management in science subjects by mentors. Financing the education and training of children is especially challenging and costly for Roma and non-Roma families living in poverty and poor social conditions. Underprivileged students and their mentors are jointly invited to participate in the Scholarship Programme offering grants. The Scholarship Programme includes three equal opportunities and one talent management subprogrammes.

46. Other scholapship programmes provide inevitable aid to Roma pupils. Public Foundation for Roma set up by the Government in 1995 with the priority objective of managing a scholarship system specifically designed to promote successful school progress for Roma students. In addition, calls are also issued by the Roma Cultural Fund, as well as by the Roma Intervention Fund. The latter one aims at providing support in whole or in part for Roma Self-government units, Roma organisations involved in cultural and artistic activities. Intervention call is issued yearly with the objective of providing support in part to manage social and housing crisis threatening Roma communities.

47. In the field of higher education, the Higher Education Mentoring Programme provides students with disadvantages or multiple disadvantages in their first year of higher education with personal, non-financial, voluntary support by students in their sophomore years, studying at the same institution on administrative and academic dimensions of higher education studies and life, scholarship issues and general questions, and provides guidance on how to adjust to university/college life. The programme is aimed at facilitating good school performance and preventing dropping out.

48. Municipalities also play an active role in the Roma integration. The Bursa Hungarica Scholarship is a social benefit awarded on the basis of a means test (disregarding academic merit) via a call to higher education students with the objective of enabling socially disadvantaged students to participate in higher education. The scholarship has dual funding sources: a local government scholarship and an institutional scholarship. The scholarship awarded by the relevant local governments is co-financed by the ministry responsible for education by an identical amount of funding, respecting the threshold applicable that year.

49. Reference is made to pre-schooling support as specified under the chapetr on the Rights of the child above. Furthermore “Biztos Kezdet Program” (Sound Start Programme) targets the youngest age group from 0 to 5 aiming at ensuring early intervention to provide health, child welfare and social services for disadvantaged children as early as possible. It is implemented in the most disadvantaged regions and segregated residential units within

settlements. It also combats segregation and improves school enrolment for children in poverty.

50. As far as the recent EU co-financed programmes are concerned many measures target the education of Roma students or pupils with multiple disadvantages. Social Renewal Operational Programme (SROP) 2007-13 Priority 3 includes some important measures in the field of public education.<sup>7</sup>

#### *Complex programmes*

51. Programmes focus on the development of deprived regions, settlements or parts of settlements where the proportion of the Roma population is high. Programmes for closing of segregated settlements run since 2005. Development programmes for the most disadvantaged micro-regions launched in 2009 is a complex programme for the 33 most disadvantaged micro-regions to be assisted with other Government programmes. In the scope thereof, Regional Operational Programme (ROP), Social Infrastructure Operational Programme (SIOP), Social Operational Renewal Programme (SROP) and Economic Competitiveness Operational Programme (ECOP) provide appropriated tender funds for applicants from the 33 affected micro-regions, and these had to develop a shared, micro-region level integrated planning and programming document collecting municipal, NGO and enterprise projects implemented in different fields in order to use the funds.

52. Territorial targeting focuses on population most in need and offers integrated programmes with particular attention to employment, education, health care, social status and housing. The Hungarian government will launch integrated programmes with the overall objective of increasing the employment rate in disadvantaged (micro-) regions to national average. The programme would allow for determining local responses to local challenges with a special focus on sustainability.

53. Social inclusion of the inactive Roma people living in deep poverty in sub-regions as well as disadvantageous groups is dealt with by development of their qualification and competences, expansion of employment, improvement of living conditions impeding social inclusion, and improvement of access to services. Tangible results certainly take time to reach, but it is our aim to reach the national average of employment in these regions as well.

#### *Health care*

54. Promoting incentives and specific actions aiming at the socio-economic integration of Roma covers the intervention in the area of healthcare. Call to promote the complex general health screening of people living in small settlements (Ministry of Health, 2008) aimed at increasing the participation of the population in screening by providing better access to the service. The grants give extra operation costs to the transport of organized mobile screening units as well as to deployment of mobile screening units in 'ad hoc' screening. The call also supports the transportation of the inhabitants of small settlements for oncology screening.

### **7. Situation of people living with disability/under guardianship**

55. It should be noted that Hungary was the first state in the world that has ratified the Convention on the Rights of Persons with Disabilities and its Protocol in 2007 and the Government is working on the implementation thereof.

56. Adults having problems with the ability to act are assisted by the institution of guardianship to exercise rights and manage pecuniary affairs. A guardian is appointed by the court to make decisions in lieu of the person under guardianship. Guardianship may restrict or exclude the ability to act. Guardianship is ordered for a person over 18 years of

age whose discretionary power is significantly reduced in general or for a longer period of time or periodically owing to his psychical condition, mental disability or addiction. Consent of the guardian or subsequent approval is needed for the validity of legal declaration of a person with limited ability to act. The person under guardianship may make legal declarations in all cases unless the court has restricted his ability to act in general. Guardianship excluding the ability to act is ordered for a person over 18 years of age if not having discretionary power at all for long. The legal declaration made by such a person is null and void, and the guardian shall act in his name. If the person under guardianship is able to express his/her opinion, his/her requests should possibly be taken into account before decisions. Legislation on guardianship excluding the ability to act is expected to be revised in the forthcoming process of elaboration of a new Civil Code.

57. Several in-patient institutions with high capacity take care of disabled persons in Hungary. The state is committed to de-institutionalization replacing these full-care institutions by homes and other communal housing. National and local public service providers are obliged by law to ensure accessibility of their services. An important project was launched in 2008 aiming at developing professional background for equal accessibility. A disability training package was elaborated for healthcare workers to care patients with special needs.

## **B. Right to liberty and security of the person**

### **Administration of justice and the rule of law**

#### **1. Administration of justice**

58. Anti-discrimination has been part of the curriculum of the Hungarian Judicial Academy (HJA) for many years. Both criminal and civil case judges, trainees and junior judges have been given such training in the framework of regular courses.

#### **2. Conditions of detention and prevention of torture**

##### *Fundamental rights of detainees*

59. Pursuant to Decree Law<sup>8</sup> on the enforcement of criminal sanctions, the human dignity of the sentenced people shall be respected, they cannot be subjected to torture, cruel, inhuman or degrading treatment, no medical experiments or scientific examinations without their consent can be performed on them.

60. The detainees can exercise their religion, they are entitled to perform work, schooling, self-development, and they have educational and sporting opportunities. It shall be ensured for the detainees that they can spend at least one hour a day on fresh air. They have the right to receive appropriate food and health care.

61. The detention of juveniles should be in conformity with their age. In case of women increased protection of pregnant women and women having newborn children should be ensured. Pregnant women or women with newborn children cannot be assigned for night work and they shall be provided the opportunity to take frequent showers.

62. The entire process of detention is under the control and legal supervision of the public prosecutor and the judge. In this regard it should be noted that people can lodge a complaint against the punishment<sup>9</sup> they receive and the complaint shall be assessed in the last resort by the court. Also, the judge shall decide with regards to the modification of the degree of security, authorizing less severe rules of correction, or on the conditional release.

*Conditions in detention facilities*

63. At present the 12,335 places in detention facilities are occupied by 16,527 inmates, resulting in an average saturation of 134%. Overcrowding is characterised by a strong territorial disparity. The number of people accommodated in the cell (room) shall be determined in such a way that in the case of male convicts 3 square meters, and in the case of juvenile or female prisoners 3.5 square meters of movement area per person should be available.

64. In order to find a solution, the National Prison Service last year prepared a proposal for the expansion of places to reduce the saturation to 100% and for the extensive modernisation of the cells being in a poor condition. As a further tool to reduce the saturation of prisons the system of criminal sanctions shall be revised in order to significantly increase the use of alternative and other non-custodial sanctions. Current review of electronic remote supervisory tools and the rules of application of house arrest are also aimed at reducing the number of detainees in pre-trial detention.

65. The CPT<sup>10</sup> and legal aid NGOs (Helsinki Committee, Mental Disability Advocacy Centre) have been criticizing for a long time the situation of accommodation of the mentally ill at the Judicial and Observation Psychiatric Institute (IMEI). The Government is committed to find a solution during the modernisation of the IMEI that – in line with the requirements of the CPT – makes it possible to apply an attitude that is aimed at healing, not at sanctioning.

66. It should be noted that the examinations of the conditions in Hungarian prisons – apart from the CPT reports, also the reports prepared by the Parliamentary Ombudsperson and/or by Hungarian NGOs – criticized primarily the conditions of detention and not the professional work performed by the personnel in the detention facilities.

*Detention in the facilities of the Police*

67. The latest CPT report on the situation of people detained by the Police found the practices of the Police to be appropriate both as regards detention and interrogation. In 2008 from the 166 complaints about torture or inhuman treatment only five, while in 2009 from 121 only seven were lodged against the personnel responsible for the detention.

68. However, during the visits made by CPT some people complained about the application of excessive force during the process of the arrests and/or tight handcuffing during transportation. There were also complaints about rude, sometimes racist language/vocabulary used during the arrests and/or interrogations. CPT also pointed out that the conditions of detention by the Police are appropriate for a maximum period of 72 hours, but not for pre-trial detention and/or the enforcement of custodial sanctions imposed for petty offences both exceeding this period. Similar problems are present in the practice of arrest, especially due to the uncoordinated implementation of rules.

69. The Ministry of Interior takes these observations seriously. Police staff has been receiving thorough training to handle racist prejudices and to learn how to communicate effectively with victims and suspects belonging to minorities. However, these efforts are not yet sufficient, therefore the development of a new law enforcement protocol for handling racist and/or racism-motivated crimes was started, and within the framework of this project the police training courses on racism and prejudice will also be reviewed and improved, if necessary. In this project, the Ministry of Interior uses also the professional experience of the Police College. The amendment to the Official Instructions of the Police will be elaborated during the first half of 2011.

*Control over the Police*

70. As of 1 September 2007 apart from the control by public prosecutors, disciplinary procedure and investigation of criminal responsibility the Independent Police Complaints Body is also performing civil control over Police activities. The five members of the Body are appointed by the Parliament for six years, from lawyers having outstanding experience in the area of fundamental rights. The scope of action of this Body is the investigation of complaints received in connection with police actions and omissions. The National Police Commissioner shall submit a monthly report to the Body about the complaints submitted to the Police. If the Body states that there has been a severe infringement of fundamental rights, it shall send its opinion to the National Police Commissioner, who shall deliver a resolution within 30 days, which can be reviewed by a court. By transferring the investigation of complaints against police actions to the competence of an independent body, the Government ensures a more efficient protection of fundamental rights.

**3. Human trafficking**

71. Subsequent to Hungary's accession to the European Union and the adjustment of Hungarian legislation to EU standards, the number of human smuggling cases registered by the law enforcement authorities decreased by half and after Hungary joined the Schengen Area there was an even more intense reduction<sup>11</sup>.

72. The trafficking in human beings (THB) is a felony punishable by imprisonment for up to three years. The punishment is one to five years if the criminal act is committed, among others, for the purpose of fornication or sexual intercourse.

**4. Migration and asylum**

73. Compared to the other EU Member States, the number of foreigners in Hungary is relatively low: on 31 December 2010 those with a residence permit valid for more than 3 months was roughly 210,000 (about 2% of the country's population). Visas are issued by the Hungarian consulates abroad while residence permits and long-term residence permits are issued by the Office of Immigration and Nationality. In the first 11 months of 2010 the Office issued 11,792 new first residence permits.

74. Act II of 2007 on the Entry and Stay of Third-Country Nationals stipulates that asylum seekers should not be held in immigration detention or detention prior to expulsion for the sole reason that they are seeking international protection. The recently modified law prohibits the detention of unaccompanied minors and permits the detention of accompanied third country national children together with their families only as a measure of last resort (where the aim of the detention cannot be reached by other less coercive measures) but only for a maximum of 30 days. When the authority decides to impose detention on a family it shall take into account the best interests of the child. The implementing decrees have been modified in order to improve the conditions of immigration detention. The new rules which entered into force on 24 December 2010 stipulate that family members (including spouses) have to be accommodated together and separately from other detainees in an individual department guaranteeing the basic conditions of family life. According to the new rules, the education of detainee minors has to be ensured if that is justified by the length of detention. The modified ministerial decree sets out that adequate specialist medical care shall be provided for those detainees who have been subject to torture, rape or other violent acts in the country of origin in order to sufficiently treat the trauma caused by these acts.<sup>12</sup>

75. The principle of non-refoulement is well-established in the Hungarian legislation. For years there has been civil monitoring over the operations of the border guards in the framework of a tripartite agreement between the Hungarian Police (which is the sole responsible authority for border control in Hungary), the UNHCR's Regional



Representation and the Hungarian Helsinki Committee on border monitoring. In 2009 several training courses were provided for border guards on human rights, the international rules concerning return (including the principle of non refoulement) and with the aim of sensitizing them towards asylum seekers with the financial support of the UNHCR, the European Refugee Fund or the Return Fund and the Hungarian Ministry of Justice and Law Enforcement.

## 5. Statelessness

76. In order to better embed our migration- and nationality-related legislation into the international legal framework, Hungary has become party to all relevant international conventions<sup>13</sup> on the protection of the stateless and the reduction and prevention of statelessness. Moreover, as of 1 July 2007, Hungary established a completely new statelessness determination procedure (hereinafter: SDP) by virtue of Act II of 2007 on the Entry and Stay of Third-Country Nationals, Hungary is one of the few countries in the EU having such a comprehensive procedure established by law; with guarantees comparable to the refugee status determination procedure, fulfilling also the specific needs of this group (e.g. evidences, burden of proof, administrative assistance). The Hungarian SDP has been commended by UNHCR and other states also indicated interest to study our model and experience. Since its adoption the SDP has been functioning smoothly; no misuse has been reported so far and the recognition rate is quite high (around 70–80%), even if the number of applicants is relatively low (less than 50 per year).<sup>14</sup>

## C. Freedom of expression and association Right to participate in public and political life

### 1. Freedom of expression

#### *The new media legislation*

77. The new Media Act (Act CLXXXV of 2010 on Media Services and the Mass Media), together with the so-called Media Constitution (Act CIV of 2010 on the freedom of the press and the fundamental rules on media content), entered into force on 1 January 2011. The members of the Media Council of the National Media and Infocommunications Authority (which is the key media licensing, appointing, regulatory and supervising authority, an independent body answerable only to the Parliament) were elected by the two-third majority of the Parliament. The Media Council and its members are solely subject to law and may not be instructed with respect to the fulfilment of their official duties. The main objectives of the new media legislations are on the one hand to further strengthen media freedom and media pluralism in Hungary, fully in line with European patterns and values, and on the other hand to comply with EU legal harmonization requirements.

78. The new media law provides opportunity for the effective assertion of the public interests, for the creation of a clear regulatory environment for service providers, and for renewal in the public media. The legislation's provisions, with the aim of implementing articles 9, 21(1), 24, 26 of the EU Charter of Fundamental Rights, provide increased protection of the rights of children and minors as well as the right of audience, with particular focus on socially disadvantaged groups (programmes accessible to people with a hearing disability). It also ensures the presentation of national and ethnic minorities in provision of public service broadcasting. The legislation prescribes normative, guaranteed financing for public service providers which are on the brink of financial collapse. Financially it aims to create an opportunity for the production of a significant amount of Hungarian-made programming. The new Media Act puts the protection of human dignity in its gravity and provides effective enforcement tools to better protect it in the future.

Another important universal value of the new act is the self-regulatory aspect providing important role in the rules-setting procedures to national NGOs and professional organizations, existing and functioning in the media field in Hungary.

79. The adoption of media legislations is also part of our obligation under the media directives of the European Union with special regard to the Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on Audiovisual Media Services.<sup>15</sup> Its aims, regulatory basis, conceptual system, institutions and instruments reflect the provisions of EU guiding principles on audiovisual media services. The new regulations follow the changing demands of the media market brought about by modern technology. Thus, for example, the Act states that media content cannot be treated differently on the basis of its format, whether it appears electronically, in print or in any other form. The media legislation also represents more comprehensible regulation for service providers, as all the procedures of the authority will be governed by public administration procedure, which will make it possible to guarantee the assertion of the rights for the public and provides, in accordance with universal standards, access to justice, effective judicial protection and judicial review by independent courts of administrative decisions (even including that the court can alter the administrative decision of the Media Authority being sub judice). The new media legislation employs a system of sanctions which is tailored to the special circumstances of media administration and which conforms to the principles of equality under the law and of a state governed by the rule of law. Its three most important basic procedural principles, also following universal and European patterns, are progressivity, proportionality and equal treatment.

80. In the European Union, media regulation mainly falls within the legislative remit of individual Member States, and Hungary – as demonstrated above- fully shares the common values of the Union and respects the Charter of Fundamental Rights of the European Union. The Government of Hungary made it clear that if the European Commission under its normal proceedings finds any element in the new law being not in conformity with relevant and applicable EU legislation, then it expressed its readiness to initiate modification thereof. Pursuant to different submissions, the new law is currently before the Hungarian Constitutional Court, whose decisions are legally binding on the legislator. Since this has become an issue, where genuine human rights concerns are often intermingled with political considerations both domestically and outside Hungary, and given the ongoing dialogue between the Government of Hungary and the European Commission and other actors, it is now premature to envisage when and in what sense the new media legislations will be amended in the forthcoming period of time.

## **2. Freedom of association and peaceful assembly**

81. With the new constitutional process Acts regarding the most important human rights including the Act on the Right of Assembly are to be reviewed. There are certain questions which are to be addressed: the problem of assemblies not announced three days before (spontaneous assemblies), the refinement of the regulations concerning the protection of the demonstrators and the security issues of demonstrations.

82. The Hungarian Guard (Magyar Gárda) was registered by court as an association for protection of traditions and culture in 2007. Its operation has been characterised from the beginning by a commitment to extreme nationalism. In 2009 the Hungarian Guard was dissolved by subsequent court orders, because the activities of the organization were against the human rights of minorities as guaranteed by the Constitution. The Hungarian Guard tried to ignore these court decisions but its activity has been reduced drastically since then.

83. To deal with the conduct unacceptable in a society founded on the rule of law and to more effectively prosecute the illegal activity of people not willing to acknowledge the dissolution order of the court, the legislation ordered to prosecute participation in the

activities of the dissolved social organisation as an infringement of the law. The law prosecutes even wearing clothes that resemble to the uniform, usual attire of the dissolved social organisation and makes it possible to impose even custodial sentences.

### **3. Participation of national and ethnic minorities in the Hungarian political life**

#### *Parliamentary representation of minorities*

84. According to the Constitution the national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State. The Constitution guarantees the protection of national and ethnic minorities and ensures their collective participation in public affairs, the fostering of their cultures, the use of their native languages, education in their native languages and the use of names in their native languages. The law on national and ethnic minorities, a “qualified” two-third law, was adopted in 1993, which has changed significantly in 2005. Under this law, minorities can set up local, regional and national self-governments in order to exercise their collective rights. The self-governments of minorities are institutions of the cultural autonomy of nationalities as well.

85. Although the law on minorities provide for it, direct parliamentary representation of minorities in an institutionalized fashion has not yet been achieved. However, individuals of these communities were members of the National Assembly for decades as representatives of the various political parties. Delegates of the 13 national minority self-governments can participate in the work of the minority committees and other committees actively in the Parliament. The institution of the Parliamentary Commissioner (Ombudsman) to ensure national and ethnic minority rights was established in 1995. The Ombudsman for Minorities is responsible for the monitoring of minority rights.

86. The new Parliament has adopted a significant amendment of the Constitution relating to the institutionalized parliamentary representation of minorities in 2010. The new regulation stipulates that in addition to the 200 parliamentary representatives, a maximum 13 representatives can be elected to ensure the parliamentary representation of national and ethnic minorities. This new electoral law will first be applicable during the next national elections due in 2014.

#### *Minority self-governments*

87. In 1993 the law on minorities established a new institution to exercise participatory rights. This internationally recognized institution covers the self-government system of minorities at local, regional and national level. Due to their public law status these institutions are partners of local self-governments at the local level and contributors in the work of the legislature and the executive on national level. In case of issues affecting minorities, decisions can be made only by consulting with the minorities, in agreement and through compulsory discussion with them. Minority self-governments do have the right to consent in topics regarding to the local education, local media, the culture, traditions and collective use of language. They express an opinion on draft legislation affecting minorities, in case of issues affecting minority groups they can request information from public bodies, make suggestions, initiate actions and participate in the professional monitoring of minority educational institutions. The national minority self-governments can offer an opinion about all decisions affecting their communities, and they are members of the joint committees established with neighbouring countries. The national self-governments support the educational and cultural institutions of the minorities. The state budget provides funds to minority communities to maintain their own institutions.

## **D. Right to social security and to an adequate standard of living**

### **1. Right to healthcare**

88. The Health Act (Act CLIV of 1997) provides for the conditions whereby all patients may preserve their human dignity, identity, and their right to self-determination and all other rights may remain unimpaired. According to the Health Act, each patient shall have the right, within the framework provided for by law, to appropriate and continuously accessible health care justified by his health condition, without any discrimination.

89. The right to healthcare comprises several patients' rights. Each patient shall have the right to receive, in an emergency, life-saving care, care to prevent serious or permanent impairment to health, as well as to have his pain controlled and his suffering relieved. The patient shall have the right to choose his attending physician, with the agreement of the healthcare provider of the level justified by his condition and, unless a legal rule sets forth an exception, the physician so chosen, provided it is not precluded by the professional contents of the health service justified by his condition, by the urgency of care or the legal relationship serving as the basis for the use of the service. If a patient cannot be given the necessary care warranted by his health condition within the shortest possible period of time, the healthcare provider shall be obliged to inform him/her of the healthcare provider where the specific healthcare service is available or the patient shall be placed on a waiting list. If placed on a waiting list, the patient shall be informed of the reason for, and expected duration of waiting, as well as of its possible consequences. The patients' order on, and selection from the waiting list shall be based upon unified, controllable and published professional criteria, in a manner justified by the state of health of patients on the waiting list and without any discrimination.

90. In addition, the provisions regarding the right to healthcare, the Health Act lays down further detailed sets of rules on patient's rights (the right to human dignity, the right to have contact, the right to leave the healthcare facility, the right to information, the right to self-determination, the right to refuse healthcare, the right to become acquainted with the medical record, the right to professional secrecy). For the protection of patients' rights there are several legal institutions (e.g.: patient advocate, Mediation Council, ethical and supervisory committees at the hospitals) which patients can turn to in order to seek legal assistance or lodge complaint. According to the law in force, the health care service provider must inform the patient, upon admission or prior to the actual delivery of care, depending upon his /her state of health, of the rights of patients, of the possibilities of enforcing such rights and of the house rules of the institution.

### **2. Right to housing**

91. Article 70/E of the Constitution ensures the citizens' right to social security. Having interpreted this right, the Constitutional Court declared<sup>16</sup> that the right to social security entails the obligation of the State to secure a minimum livelihood through the various kinds of welfare benefits, but this shall not result in concretely defining specific rights – such as the “right to housing” – as constitutional fundamental rights. In this respect, no obligation, and hence no responsibility of the State may be established.

92. However, in establishing the system of social benefits securing the minimum livelihood, the protection of human life and dignity is a fundamental constitutional requirement. Accordingly, the State is obliged to secure the fundamental conditions of human life – it means the securing of a shelter for homeless people to offer protection from a danger directly threatening human life. Although no constitutional fundamental right to have concrete benefits follows from Article 70/E of the Constitution, the State shall - on the basis of its general obligation to provide support - strive for securing the widest possible range of social benefits, as a result of the international obligations of the State.<sup>17</sup>

93. Local governments have to issue their rental decrees on the basis of the law<sup>18</sup>. Groups prioritized in the allocation of social housing are low-income families: especially single parents' families with more children, disabled persons, elderly persons. The local governments are familiar with the local circumstances and the different situation of families therefore they can allocate social dwellings to the most vulnerable persons and families. There are also programmes for rehabilitation of segregated settlements. These programmes consist of complementary elements in order to help people in improving housing conditions, access to education and employment.

94. According to the general rule,<sup>19</sup> landlords are legally forbidden to evict tenants during winter (from 1 December to 1 March). To counter the negative effects of the financial crisis a new provision<sup>20</sup> of this Act introduced a moratorium of dislodgement until 15 April 2011. This provision applies for any type of executorial emptying a dwelling, also for social housing tenants. The government has recently launched a new medium-term strategy; one of the main goals is to improve the housing sector and access to housing.

95. The number of accommodations for homeless people has been increased from 5800 to 8200 between 2002 and 2009 especially in the capital city (Budapest), the number of street services has been doubled and coordination has been established among them. As the number of homeless people who are sleeping rough has been increased due to the financial crisis, the financing and regulation of street services will be renewed in 2011 in order to reach the people concerned and help them more efficiently.

96. Home maintenance support is provided for people in need to help them bearing their regular home maintenance costs. The benefit can be claimed if the per capita income in the household does not exceed 150%<sup>21</sup> of minimum old-age pension and the acknowledged costs of housing maintenance exceeds 20%<sup>22</sup> of the monthly income of the household. In addition, persons participating in a debt management service also qualify for this support. Beyond that, the local government can also provide local home maintenance support as an independent benefit or as a supplement. Those socially needy person with a certain amount of debt or without public utility service (disconnected due to public utility debt), may be eligible to debt management service. Its aim is to ensure the claimant's living in his home.

### **3. Pension rights**

97. Social rights and the right to social security (and the right to pension provision, too) are anchored in the Constitution. Hungary has reformed its pension system significantly in 1998 with introducing partly privatized (25%) mandatory funded provisions. However it hasn't accomplished the expectations. The introduction of the funded tier caused considerable transition costs which constitute a major challenge for the sustainability of public finances. Consequently the private tier of pensions has been withdrawn recently by the Parliament and these measures are in transition just now. Pension rights and promises of the private pension funds will be incorporated into the pay-as-you-go (PAYG) system. The voluntary funded pillar supplying supplementary pension options has been already established earlier, in 1993 and is still in force.

## **IV. Key national priorities, initiatives and commitments**

### **A. EU Roma Strategy**

98. A possible adoption of a European Roma Strategy during the Hungarian EU Presidency represents a key priority for the Hungarian Government. The strategy should focus on education and labour, thus ensuring job creation and the improvement of the quality of life for the Roma population. The new EU strategy is intended to be a necessary

tool to raise awareness of this problem and to promote social integration of the Roma, thus preventing mass migrations across the continent.

## **B. Budapest Human Rights Forum**

99. The Ministry of Foreign Affairs of the Republic of Hungary launched a series of international human rights conferences in 2008, to be held annually entitled as “Budapest Human Rights Forum” dedicated to current human rights issues. The first, second and third Budapest Human Rights Forums were held successfully in August 2008, June 2009 and October 2010 with the active participation of, and valuable contribution by, national and international human rights experts, representatives of international organizations, non-governmental organizations and governments.

## **C. International Genocide Prevention Centre**

100. In October 2010, the Deed of Foundation for the International Prevention of Genocide and Mass Atrocities was signed by two Budapest based universities at the margin of the III. Budapest Human Rights Forum. The Foundation aims at substantially narrowing the existing gap between “early warning” and “swift action” by making available practical policy options for the prevention of genocide and mass atrocities to different stakeholders based on verified information, expert analysis and tested methodologies. The Foundation will complement early warning and early action efforts of international entities, including the United Nations Joint Office on the Prevention of Genocide and the Promotion of the Responsibility to Protect, the Office of the United Nations High Commissioner for Human Rights, the Department of Political Affairs, the UNDP-BCPR and regional and national actors.

101. Through its services, the Foundation will add value to the activities and initiatives of other stakeholders through its timely and flexible response capability and a comprehensive methodology for immediate and longer-term prevention of mass atrocities.

## **D. HRC voluntary pledges and commitments**

102. The Minister of Interior officially recommended to the Government to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment.

103. Hungary upholds a standing invitation for mandate holders of human rights special procedures, and ensures a continuous voluntary contribution to the Office of the High Commissioner for Human Rights.

104. The Government is keeping the deadlines with respect to the submission of periodic reports on the implementation of international human rights instruments.

### *Notes*

<sup>1</sup> Upon the introduction of an integrated method of education, a substantial reform began in 2003 including the development of basic and advanced training programmes for teachers in methodology. Renewal of pedagogical methods, revision of legislation on education concerning multiple disadvantages and financial incentives are important elements of the reform. Integration in education is more widely promoted by extracurricular activities and efforts have been made regarding the involvement of parents. There is still need to enhance inclusive education. Local development

- programmes widen the scope of actions and increase the commitment of various actors through co-operation and shared responsibility.
- <sup>2</sup> The Equal Treatment Act fulfils a number of regulatory obligations laid down in EU directives, among others those contained in 2000/43/EC on the implementation of the principle of equal treatment of persons regardless of their ethnic or racial affiliation and 2000/78/EC on the creation of a general framework for equal treatment in employment and labour.
- <sup>3</sup> Duplicating the statutory provisions in the Criminal Code does not seem necessary, since “battery in the family” or “homicide in the family” from a legal point of view would not differ from battery or homicide committed to the injury of anybody else. If all the violent conducts that can occur in the family would be redirected into a single statutory provision as “violence in the family”, such provision should contain all criminal conducts from administrative offences liable to a fine to homicides. It is certainly not possible to determine suitable punishments to a statutory provision with such a wide scope. Such a *sui generis* statutory provision does not seem to represent any added value and would not trigger less commission or more detection.
- <sup>4</sup> Recent international trends rather define rape as a sexual action without consent. Such definition however does not refer to violence, although rape is a violent crime making the justification of the commission of the crime more difficult. The new Criminal Code will probably take a middle course, threat would be sufficient to establish the commission of rape.
- <sup>5</sup> In order to promote awareness related to the rights of the child, a new handbook called “Compasito” has been released. Education of human and children’s rights is part of the training program for professional youth workers dealing with children.
- <sup>6</sup> Most important fields of intervention within priority 1 of the Social Renewal Operational Programme are as follows:
- Labour market activation, prevention and training: a new start is offered to jobseekers in the form of services (including training programmes) and active support to enhance their employability.
  - START programme: Targeted reductions of social security contributions paid by the employers hiring disadvantaged people (including, among others, inactive women, low skilled persons, older workers, long-term unemployed) may raise demand for workforce. It is in many cases a complementary form of support for those taking part in the activating and training programmes.
  - Social economy, innovative and local employment initiatives and pacts: Social economy and local employment initiatives also create employment opportunities for disadvantaged citizens, and enhance the level of provision and access in regions and territories lacking services. Taking into account the significant regional disparities in the labour market, it is important to support the cooperation of local stakeholders with a view to elaborating local employment strategies and employment agreements, as well as to mobilizing resources. The organisations that gained experience in supporting these initiatives are involved in the implementation.
- <sup>7</sup> SROP 3.3.1. key project “Promotion of professional developments and services supporting the integrated education of and equal opportunities for severely underprivileged students” co-ordinates and supports every measures of whole intervention area regarding integrated education: prepares methodological documents, organises teacher training courses and network services. Under SROP measure 3.3.2 “Promotion of implementation of Equal Opportunities programmes” is specifically designed to promote the realization of equal opportunities in Hungary’s public education to improve the role of the school system to provide equal opportunities for severely underprivileged students. Other relevant measures are: SROP measure 3.3.3. “Quality assurance reference centres for public education institutions” that promotes collaboration of institutions with professional service providers networks and SROP 3.3.5 A – Promotion of ‘Tanoda’ programmes contain extracurricular activities that promote the different opportunities of informal learning.
- <sup>8</sup> Sections 21 (1), 24 and 25 (1) of Decree Law 11 of 1979.
- <sup>9</sup> Solitary confinement, reprimand and reduction in the amount available for personal needs.
- <sup>10</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe.
- <sup>11</sup> Number of registered human smuggling cases: 2003:1481, 2004: 658, 2005: 672, 2006: 525, 2004: 375, 2008:186, 2009: 180, 2010:152.
- <sup>12</sup> In 2010 the number of persons in immigration detention was 2516, while the number of persons in

detention prior to expulsion was 1490. The Government supports initiatives related to reinforcing guards' capacities and developing their intercultural communication and conflict resolution skills.

<sup>13</sup> These are, at the universal level, the 1954 New York Convention on the Status of Stateless Persons, the 1957 UN Convention on the Nationality of Married Women, the 1961 UN Convention on the Reduction of Statelessness.

<sup>14</sup> In June 2010 Hungary organized a seminar on statelessness in the framework of the Söderköping Process, presenting her experiences and good practices to Moldova, Ukraine and Belarus and last autumn held a side event during the 15<sup>th</sup> session of the Human Rights Council. Hungarian government experts have an excellent cooperation with local NGOs and the UNHCR Regional Representation in Budapest, striving to assist UNHCR to improve the situation of stateless people around the world.

<sup>15</sup> OJ L 95, 15.04.2010., p. 1.

<sup>16</sup> Decision 42/2000 (XI. 8.) AB.

<sup>17</sup> The Hungarian State has several measures providing subsidies for people to help their access to housing. These measures aim to provide subsidies for different groups of society: e.g. subsidising the interest of loans for young people and families with two or more children, non-repayable housing subsidy for disabled persons.

<sup>18</sup> Housing Act: Act LXXVIII of 1993.

<sup>19</sup> Article 182/A of Act LIII of 1994 on the Execution Process.

<sup>20</sup> Article 303.

<sup>21</sup> From 1 September 2011 it will increase to 250%.

<sup>22</sup> From 1 September 2011 it will be ceased.

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