



Manual on Human Rights

Prepared for the review of the situation of human rights in Hungary in the framework of the Universal Periodic Review of the United Nations Human Rights Council

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FOREWORD

Dear Reader,

As part of the reform process that had started after the turn of the millennium in the United Nations Organisation a new human rights mechanism was adopted in 2006 in the framework of activities of the Human Rights Council: the Universal Periodic Review. Its objective is to review and assess the human rights situation in all the countries in the world in an effort to promote respect for human rights in each country. The comprehensive review of the human rights situation of Hungary was conducted in May 2011. The review was preceded by a lengthy and thorough preparation with the cooperation of the Hungarian Government, human rights experts and civil society organisations.

It is important to stop from time to time and to review and summarise the results achieved, and also to jointly formulate the steps yet to be taken. We offer the Reader this publication, the fruit of successful and effective joint endeavours, and with it we wish to provide a comprehensive picture about the human rights situation in this country.

When it comes to human rights, each country has some way to go. Comparison of countries with different situation, history and social establishment may assist in recognising the tasks.

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ABOUT THE FUNDAMENTAL LAW

Did you know that a new Constitution was adopted in Hungary in 2011?

The new Fundamental Law of Hungary was adopted by Parliament on 18 April 2011 and it was promulgated on 25 April 2011 after the signature thereof by the President. The new Fundamental Law enters into effect on 1 January 2012.

Why did Hungary adopt a new Fundamental Law?

At the time of the fall of communism in 1989-90 no new Constitution was adopted, only the communist Constitution of 1949 was amended, therefore, it was high time to create a new Fundamental Law.

Over the past two decades each political force intended to adopt a new Constitution, which would symbolically close the transitory period of the political changeover; however, the governing parties so far lacked the extent of social support that would have enabled them to do so.

What preparatory process preceded the adoption of the Fundamental Law?

In a broader sense a preparatory process of twenty years preceded the adoption of the Fundamental Law, as the Fundamental Law is, inter alia, based on the results of two decades of judicial practice by the Constitutional Court, as well as on the background materials developed in the course of the abortive attempts to creating a new Constitution in the mid-1990s. However, the adoption of the Fundamental Law, even in a stricter sense of the term, was the result of a public preparatory process of almost a year, which started in June 2010 with the setting up of the Parliamentary Committee for the Preparation of the Constitution. Broad ranging professional and social consultations took place in the course of the process, for instance, the Committee for the Preparation of the Constitution received hundreds of professional observations in a written form in 2010. In early 2011, the Government set up a national body of consultation, which used a questionnaire to seek the opinion of every Hungarian citizen of voting age with respect to the contents of the Fundamental Law. In the last month of the preparation, Parliament was exclusively engaged in the discussion of the new Constitution and consultations were ongoing in the course of the parliamentary procedure, the results of which were reflected in the proposals for amendments. Both civil society organisations and the opposition parties had the opportunity to express their position in the process of creating the new Constitution.

Does the Fundamental Law ensure efficient enforcement of human rights?

Yes. The Fundamental Law incorporates a separate chapter on fundamental rights, which, contrary to the earlier Constitution, is inserted at the beginning of the Fundamental Law, directly after the fundamental principles. The chapter on fundamental rights starts with the provision that “the inviolable and inalienable fundamental rights of MAN shall be respected. It shall be the primary obligation of the State to protect these rights.” When defining the specific fundamental rights the Fundamental Law follows the formulation of the international covenants on human rights and also takes into account the most modern provisions of the latest documents on human rights. Accordingly, in addition to the classic political, economic, social and cultural rights the Fundamental Law also formulates several new fundamental rights which were not defined in the Constitution earlier. For instance, the Fundamental Law includes, as new feature,



the protection of consumers and people with disabilities, the prohibition of cloning, the right to due administrative procedure, and the right to access to public services. Moreover, the Fundamental Law puts great emphasis on the protection of the rights of future generations as well, and in addition to the right to a healthy environment, it also stipulates the ‘polluter pays’ principle and provides for the obligation to protect natural resources.

Does the new Fundamental Law ensure that the Hungarian legal system is in harmony with the international legal obligations undertaken by Hungary?

Yes, the new Fundamental Law expressly declares that “[i]n order to comply with its obligations under international law, Hungary shall ensure that Hungarian law be in conformity with international law”, and the Constitutional Court shall continue to have the right to examine whether the rules of law are in conflict with international treaties.

Does the new Fundamental Law ensure the efficient operation of the Constitutional Court?

Yes. The Fundamental Law continues to regard the Constitutional Court as the ultimate body protecting the Constitution, however, based on the practical experience of two decades it slightly modifies the character of Constitutional Court procedures. Among the powers of the Constitutional Court the new Fundamental Law reinforces and expands the institution of preliminary examination of conformity with the Fundamental Law, and introduces the new institution of the so-called genuine constitutional complaint. In the framework of preliminary examination of conformity, laws are examined for conformity with the Fundamental Law, while constitutional complaint means that if an individual’s fundamental rights have been infringed as a result of a specific court decision, he may challenge the law as being unconstitutional as well as the specific judicial decision regarded as violating the Constitution. Along with the introduction of new and extended mandates to guarantee efficient protection of fundamental rights, the new Fundamental Law is more restrictive than earlier regarding the scope of persons entitled to initiate ex-post examination of constitutional conformity without a specific legal interest. The reason behind this provision was that the wide-ranging application of the ex-post review of conformity, which could be initiated by anyone without any restriction and legal interest, imposed excessive loads on the Constitutional Court and the Constitutional Court itself also presented a motion for the restriction of this institution in the course of preparation of the Fundamental Law.

The new Fundamental Law did not change the competence of the Constitutional Court in respect of examination of conflicts with international treaties, and of review of statutory provisions applicable in individual cases upon the motions of the proceeding judges.

Does the new Fundamental Law ensure the efficient operation of the ombudsman’s institutions?

Yes. In order to ensure the performance of tasks related to the protection of fundamental rights within more efficient organisational frameworks, and also in consideration of the personal proposal of the Parliamentary commissioner of citizens’ rights and in harmony with international practice, the new Fundamental Law will not allow for the election of more than one ombudsman in the future.

The Fundamental Law provides for the operation of only one ombudsman (commissioner for fundamental rights). The major advantage is that the competences of the ombudsmen are not fragmented and the activity related to the protection of fundamental rights will take place in a more efficient organisational framework.



Under the Fundamental Law the commissioner for fundamental rights will examine or arrange for the examination of any and all abuses of fundamental rights which came to his knowledge and will initiate general or individual actions for their remedy. Therefore, the transformation of the ombudsman's system of institution does not mean a reduction of protection of fundamental rights – all fundamental rights will continue to be protected by the ombudsman in the future. Moreover, the Fundamental Law expressly refers to the requirement to elect separate deputy ombudsmen for the protection of interests of future generations and of the rights of minorities. Parliament continues to elect the ombudsman and his deputies and the institution continues to operate independently from the Government, and is answerable exclusively to Parliament.

Instead of a separate ombudsman, implementation of the right to the protection of personal data and access to data of public interest will be supervised by an independent body holding the powers of an authority, to be set up by a cardinal law. Creating such an authority is justified as the need for the efficient protection of rights in the wake of technological development and the simultaneous strengthening of the right to information calls for powers of intervention vested in legal protection bodies that would be alien to the ombudsman system, which was set up essentially to fulfil non-official tasks.

Does Hungary have a national human rights institution in compliance with the Paris Principles?

In the summer of 2011 the accreditation committee of national human rights institutions operating under the auspices of the UN recognised the parliamentary commissioner for citizens' rights as a category 'B' national human rights institution. In view of the fact that under the new Fundamental Law and the cardinal law on its enforcement, the parliamentary commissioner – or commissioner for fundamental rights, by the new name – will, in the future, have broader authorities than at present, covering all fundamental rights. Once the new regulation enters into effect on 1 January 2012, the parliamentary commissioner will stand a good chance to acquire the highest level, category 'A', accreditation.

Does the Hungarian legal system ensure full-fledged enforcement of the prohibition of discrimination?

Yes, the Fundamental Law sets out the prohibition of discrimination on whatever grounds. This provision of the Fundamental Law does give an itemized list of protected characteristics, but after offering a non-exhaustive list of examples, it refers to the prohibition of discrimination on any ground in addition to the ones specified. Consequently, as an example, although the Fundamental Law does not expressly designate the prohibition of discrimination on grounds of sexual orientation, in accordance with the consistent practice of the Constitutional Court, which will continue to provide guidance in the future, the prohibition of discrimination also includes that discrimination on the grounds of sexual orientation is also prohibited even without an express mention. This prohibition is also unequivocally enshrined in the Act on Equal Treatment and Promotion of Equal Opportunities.

Consequent to the provisions of the Fundamental Law which states that everyone shall be equal before the law and those relating to the right to human dignity, and in keeping with the current practice of the Constitutional Court providing judicial guidance, the prohibition of negative discrimination exists not only with respect to fundamental rights but all the entitlements defined by rules of law.

Does the new Fundamental Law mean the rules of abortion will be tightened?



No. The Fundamental Law provides for foetal life in connection with the State's obligation of institutional protection. In the section laying down the right to life and human dignity of every human being, a separate clause provides that "the life of the foetus shall be protected from the moment of conception." This is the codification of the currently effective practice of the Constitutional Court, which expresses the obligation of the State to protect the foetus. This provision does not mean the tightening of the currently effective regulation of abortion.

Does the Fundamental Law change the definition of the institution of marriage?

The Fundamental Law brings about a change in the definition of the institution of marriage only in the formal sense. Deviating from the text of the previous Constitution, the new wording of the Fundamental Law expressly declares that Hungary shall protect the institution of marriage as "the conjugal union for life of a man and a woman established by their voluntary decision". However, in terms of contents, this means no change in the earlier Hungarian situation with respect to constitutional law: according to the unbroken practice of the Hungarian Constitutional Court and in compliance with the international covenants on human rights, marriage has always been conceived as the conjugal union for life of a man and a woman. At the same time, same sex couples are granted the same legal protection as heterosexual couples in the context of registered partnership, and this will not change in the future.

What progressive changes does the Fundamental Law bring with respect to the right to vote of persons with limited mental capacity?

Under the old Constitution, persons who, for any reason, were under guardianship excluding or restricting their capacity to act were automatically and generally barred from the right to vote regardless of the extent of the limitation of their mental capacity. As a deviation from this rule, the new Fundamental Law requires that in the case of persons under guardianship, the examination of the lack or limitation of their competence shall expressly include the examination of their competence to exercise their right to vote in elections. Accordingly, persons under guardianship can be excluded from exercising the right to vote in elections in the future only on the basis of individual judicial evaluation taking into account the actual capacities and circumstances of the individual from the angle of the right to election. The evaluation must take into consideration the principles of necessity and proportionality and can be challenged by virtue of a constitutional complaint.

Does the Fundamental Law ensure the freedom of expression and the freedom of press?

Yes. The Fundamental Law recognises everyone's right to the freedom of expression and accordingly, "Hungary shall recognise and protect the freedom and pluralism of the press, and ensure the conditions for freedom of information necessary for the formation of democratic public opinion".



ABOUT THE FUNDAMENTAL RIGHTS

Protection of fundamental rights in criminal law

Human rights are widely protected in the Hungarian criminal law. Whether a person is involved with the judiciary as an aggrieved party or an accused, it is fully guaranteed that the authorities will respect their rights under the Fundamental Law and other international covenants. Naturally, persons who are more vulnerable than the average because of some particular feature (such as age or disability) will be offered greater protection.

As the ultimate means, criminal law protects citizens against whom acts of crime were committed or contemplated. Act IV of 1978 on the Criminal Code (hereinafter: Criminal Code) in its Special Part sets out the criminal acts that are punishable under criminal law and includes the punishment the perpetrator may expect.

What are the provisions of the Criminal Code regarding hate crimes?

Certain cases of violent behaviour motivated by racism and xenophobia are punishable by the State under the Criminal Code. In addition to genocide and apartheid, which belong to the category of crimes against humanity, violence against a member of a community is also a basis to expressly act against racism and xenophobia. Moreover, the Special Part of the Criminal Code includes several crimes, for instance homicide and battery, where malicious motive or purpose is an aggravating circumstance. Crimes motivated by racism are always considered as crimes perpetrated for a malicious motive, therefore more severe punishment can be applied.

Moreover, the Criminal Code defines malicious motive or purpose among the qualified cases of numerous acts of crime. They include homicide, battery, violation of personal freedom, defamation, and unlawful detention. Should the perpetrator commit an act in which the vile reason or purpose are not qualified cases, the court with respect to punishment may assess as aggravating circumstance the racist intention, if the evidence is adequate.

Recently, several extremist groups attempted to intimidate certain communities. In response, the Criminal Code has been amended, and according to the effective statutory provisions, perpetrators of such acts face penalty.

What are the provisions of the Criminal Code regarding violence against women and children?

Domestic violence The Government considers handling of domestic violence as a priority issue. It is clear that the State must provide protection for its citizens who are subject to violence in their own home on the part of the very person (husband, wife, parent, etc.), from whom they would expect love and respect. The Government is aware of the financial or personal vulnerability of the victims. However, it is also clear that domestic violence is a more complex social problem than could be treated purely by legislative means. 'Domestic violence' is not included in the Criminal Code as a sui generis category of crime, because there is no act (i.e. behaviour of perpetration) falling within the scope of domestic violence, which would not be covered by some already existing categories of the Criminal Code or of the Act on Minor Offences.



Furthermore, restraining can be applied against the perpetrator before the start, and at each stage of the criminal proceedings.

Trafficking in human beings Under the Criminal Code, if trafficking in human beings is perpetrated for the purpose of sodomy or sexual intercourse, it shall be punishable with imprisonment from one year to five years. The punishment is most severe if trafficking in human beings was committed for the purpose of making illegal pornographic visual material. In cases where the criminal act is perpetrated to the detriment of a person under twelve years of age for the purpose of sodomy or sexual intercourse, the perpetrator shall be punishable with imprisonment from five years to twenty years or even for life. The limit of punishment was raised in 2009 from ten to twenty years. In addition, the law also punishes persons who making pornographic visual material about children or abuses such material in any way. The effective system of punishment related to this criminal act meets international requirements.

Did you know persons involved in criminal proceedings are entitled to comprehensive protection of rights in each stage of the proceedings?

The accused in Hungary, the person suspected of the perpetration of a criminal act can be held in custody for a maximum of 72 hours. During this time the court must decide if it is justified to order pre-trial detention. In the case of certain very serious crimes – the so-called high priority cases – custody can be up to 100 hours. The maximum term of pre-trial detention is adjusted to the crime and in the most serious cases it can be as long as four years. When implementing coercive sanctions involving deprivation of liberty human rights are always respected, in compliance with the international legal obligations Hungary has undertaken.

In the Hungarian criminal proceedings system, the accused in detention is entitled to the right to defence. He may elect legal counsel or if this is not possible because of his personal circumstances, the authority assigns legal counsel to represent him.

The legal institution of pre-trial detention is the most severe coercive action in criminal proceedings, therefore, it can be ordered only in particularly justified cases with the utmost respect to human rights. The Act of Criminal Proceedings stipulates, as a general rule, that everyone has the right to defend himself at liberty. This right may only be restricted or a person be deprived of his freedom for reasons and in compliance with the procedure set forth in the Act. Several coercive measures have been implemented recently as alternatives to detention. The Act on Criminal Proceedings includes the prohibition to leave the place of residence and house arrest since 1 July 2003, while restraining order has been part of the regulations since 1 July 2006.

Persons with disabilities People with disabilities are granted a wide scope of protection under Hungarian criminal proceedings. Although several possibilities have been proposed for re-working rights, so far there has been no demonstrable claim for the extension of the current scope of rights. It is to be stressed that the rights of the individual participants in the proceedings change in accordance with their position within the criminal proceedings.



ABOUT THE RULES OF MEDIA

What happened in media regulation?

A full reform of the Hungarian media regulation took place in the second half of 2010 in the course of which the Parliament adopted

- Act CIV of 2010 on the Freedom of Press and the Basic Regulation of Media Contents, and
- Act CLXXXV of 2010 on Media Services and Info-communication.

Why was the reform necessary?

- The Hungarian regulatory system became intolerably outdated by 2010. The first Hungarian media law was adopted 15 years earlier, in 1995. Dated from 1986, the law covering the printed media, the Act on the Press, was even older. Under the Constitution such acts can only be changed with a two-thirds majority of the votes in Parliament. However, at no time over the past fifteen years was such a consensus achieved in respect of the key issues, therefore these regulations remained unchanged by and large. At the same time a dramatic development has taken place in the world of media and info-communications, which the Hungarian law could not follow – contrary to other countries in Europe. With the new acts on the media the Hungarian legislation has made up for this backlog.
- The European Union adopted a new directive in 2007 on audio-visual media. The Member States were required to integrate this directive in their national law.

How can the essence of the new media regulation be summarised?

The essence of media regulation is the balance between human rights and the values emanating therefrom. The regulation must guarantee the implementation of freedom of expression in a way that it is in harmony with the rights to, and interests in – inter alia – human dignity, privacy, information, healthy development of children and the freedom of choice of consumers. We are convinced that the Hungarian media regulation creates an appropriate equilibrium of all these factors.



ABOUT NATIONALITIES

How has the criterion of determining the national affiliation evolved and developed in Hungarian law?

Admitting and declaring affiliation to a national minority in Hungary belong to the rights of the individual. At the same time, nobody can be obliged to make a statement related to his or her national affiliation.

Admitting and declaring affiliation to a minority in Hungary is the exclusive and inalienable right of the individual. No person shall be obliged to make a statement with respect to his or her belonging to a minority.

The Government endeavours to fully revamp the minority and election laws. In the course of these efforts, the objective criteria for affiliation to a minority and undertaking minority identity may be determined the context of law.

What are the possibilities in Hungary to implement the collection and publication of data concerning the ethnic origin of persons whilst fully observing human rights? (For example, for the purpose of implementation of social rights, social support and education of children, measuring the extent of their integration, measuring the distribution of convicts according to their ethnicity, etc.)

Collection of ethnicity related data in Hungary is strictly regulated. Besides being subject to a legally valid purpose, ethnicity data collected in an anonymous manner can only be used in exceptional cases.

In the course of collecting ethnicity data the principles of confidentiality, voluntary data supply, the need for a legitimate and legal purpose, proportionality and appropriate information must always be observed.

A key issue of the management of ethnicity related data is the distinction made between identity and origin: origin is a property born with a person; it is not a matter of choice. Conversely, identity is manifest as a matter of voluntary choice. If there is some advantage to being a member of a minority community, questions asked about the origin or identity of the respondent and including these data on the census sheet will not be an infringement to either the freedom of assuming identity or the right to self-determination at the level of the individual.

To what extent is it compatible with Article 27 of the International Covenant on Civil and Political Rights and with the recommendation of international organisations to require as a condition of recognising a group of people as national or ethnic minority that the group of people in question have stayed in the territory of Hungary for at least a century?

Hungary guarantees the right to self-identity of the members belonging to ethnic communities not recognised as minorities under the law; however, their community rights are subject to the Act on Minorities. The law provides for communities having the characteristic features responding to the criteria set forth can initiate their recognition as a new national minority.

The minorities and groups of peoples living in Hungary contribute to the Hungarian statehood. Each Hungarian citizen belonging to a minority or group has the right to the free admission of his or her self-identity. Minorities have the right to use their mother tongue, the unique of use of name in their own tongue, preserving and promoting their own culture and education in their mother tongue.



Act LXXVII of 1993 on the Rights of the National and Ethnic Minorities (hereafter: the Act on Minorities) provides that Hungary considers the right to national and ethnic identity as part of universal human rights, therefore each migrant is granted the individual right to identity. However, for exercising collective community rights the Act requires a minimum of one century's stay in Hungary.

With this provision the Act on Minorities recognises the very characteristic that the 13 groups of people in question have creatively contributed to the development of Hungary's cultural as well as material and intellectual heritage for several generations.

Persons residing in Hungary temporarily or long-term for the purpose of marriage, employment or for other reasons do not constitute such historical communities; therefore it would not be equitable to provide them with the same powers as those granted to historical minorities. This does not mean that migrants are deprived of their rights as they, too, are provided with social benefits and healthcare similarly to citizens, and can create associations to foster their linguistic and cultural identities. Once a citizen, they will also have active and passive voting rights.

In what way is the participation of minorities in the decision preparation process of local governments ensured?

The Act on Minorities in effect ensures the participation of elected representatives of minorities in the preparation of local decisions.

The participation of minorities in local and regional (county-level) political life is enshrined in Sections 30/N and 30/R of the Act on Minorities.

A local minority self-government makes independent decisions – within the legal framework – regarding the following issues: use of its assets, drawing up its budget, final accounts, designation of its protected monuments and memorial sites, determining its rules of organisation and procedure, determination of the name, symbols and awards of the local minority self-government.

Decision-makers grant participatory rights in legislation (rights of consent, expressing an opinion and contact, and taking initiatives) to minority self-governments in addition to local governments. The rights to consent and to express an opinion are so-called participatory (co-decision) rights.

What steps are planned to remedy the deficiencies of the minority election list and the minority self-government system in order to make the participation of minorities in minority elections as efficient as possible?

Under the Fundamental Law the rights of minorities are summarised by a cardinal law. In the course of developing this law we intend to establish the publicity of minority electoral lists and clarify the rules of their compilation.

What are the State measures to remedy the shortcomings identified in the minority self-government system and to improve its efficiency and credibility?

Without the legislative treatment of the observations and objections concerning the method of compilation of minority electoral lists, and regarding the lack of influence of the minorities on the compilation of minority electoral lists it is impossible to reinforce the credibility of minority elections.



What are the proposals for the re-regulation of the system of minority elections?

As a possible solution the parliamentary commissioner for national and ethnic minority rights proposed to the Government that in the course of the preparatory work of legislation legal guarantees should be developed in order to ensure that

- the minority self-governments of municipalities are elected exclusively by the members of the communities concerned;
- the members of the minority self-governments of municipalities actually belong to the minority they are to represent in terms of language and culture;
- minority self-governments may be set up exclusively in municipalities where the representation is demanded by the minority communities in question.

Legislative work has been going on for months with respect to the new Minorities Act. Active participants in the consultation are the national self-government of the 13 minorities and the ministries concerned. In the course of this work we also intend to establish a system of conditions that respond to the ombudsman's proposals as fully as possible.

What are the resources available to minority self-governments in order to strengthen the sustainability of their cultural identity?

Minority self-governments receive financial grants for their operation guaranteed by law at all three levels – local, county and national – of administration as follows:

- Institutional support: The Chapter on the Ministry of Public Administration and Justice of the Act on the 2011 State Budget provides for grants to national minority self-governments and the media (1,219.5 million HUF) as well as support to institutions maintained by national minority self-governments (463 million HUF).
- Differentiated support: Decree No. 342/2010 (28 December) of the Government includes provisions for the differentiated support of minority self-governments whereby one-third of the funds serve the general operation and two-thirds are task-based grants. When awarding task-based grants, the extent to which the specific minority self-government carries out the tasks of setting up and maintaining institutions, supports and organises the cultural autonomy of the minority (cultural and public education and training tasks, promoting traditions, public collections, media) is an important criterion.
- Minority policy grant: The Ministry of Public Administration and Justice chapter of the Budget Act allocates 732.5 million HUF for supporting minority policy activities. From this allocation managed under the minority policy chapter, funds are extended through open or restricted calls for applications (480 million HUF and 252.5 million HUF respectively). In 2011 the Ministry of Public Administration and Justice invited six applications for the objectives above.



Do the Hungarian authorities maintain the level of grants for supporting the cultural activities of minorities, and do they make sure that the budgetary restrictions induced by the crisis do not have a disproportionate impact on persons belonging to minorities?

The budgetary restrictions of the recent years either spared the support extended to minorities or had an impact that did not exceed the average.

A priority goal of minority policy support is to continue with the development of the institutional system implementing the cultural autonomy of national and ethnic minorities in Hungary.

It can be stated that despite the general austerity measures the amounts dedicated to minorities did not decrease above the rate of general austerity measures taken between 2009 and 2011.

What steps have been taken to establish the parliamentary representation of national and ethnic minorities, with special regard to the minorities of smaller populations?

Parliament had members representing minorities even before the fall of communism in Hungary, albeit not delegated by the communities concerned. They represented the minorities embraced before 1989: the Germans, the Slovaks, the minorities from the former Yugoslavia treated collectively, the Romanians, each of whom had one representative in Parliament in the party state system.

In the wake of the first multi-party elections in 1990 and since then, there have always been minorities represented among the members of Parliament; however, they have been representatives of the political parties rather than delegates of their respective minorities. At the same time, the 1993 Act on Minorities granted the representatives of the 13 designated minorities the right to participate in the Parliamentary Committee on Human Rights, Minorities and Religious Matters with power of consultation. In the government term before the 2010 elections they could also participate in the work of other Parliamentary committees with the right to consultation. Although the law allows parliamentary representation with full powers, this could not be implemented so far due to a lack of consensus among the political parties.

Does Hungary's new Fundamental Law also provide for the rights of minorities to participate in the work of Parliament?

The new Fundamental Law stipulates that the minorities living in Hungary form part of the Hungarian political community and are constituents of the State. Minorities have the right to representation and self-government.

After the adoption of the Fundamental Law a cardinal law will be enacted to regulate the participation of our minorities in the work of Parliament.

Hungary recognises the collective and individual rights of 13 minorities.

What programmes are available to promote and ensure the teaching minorities their language and culture?

The institutions and university courses operating in accordance with the minority programmes have appropriate financial and operating conditions in both public and higher education.



Under the Fundamental Law minorities living in Hungary have the right to education in their mother tongue. The act also stipulates that at the request of parents of eight students belonging to the same minority it is compulsory to start a minority class or study group. It is a specific objective of minority education to preserve and strengthen minority identity.

Most of the public education institutions in Hungary are operated by the local governments. This task will be transferred to the State in the near future in accordance with the plans of the Government. At present, more than 300 pre-schools are operated for minorities with almost 20,000 children. Minority education is offered in 380 primary schools and the number of the students is more than 53,000. The country has 18 secondary schools for minorities, with 2,643 students. Minority languages are taught in an additional 12 secondary schools to more than 700 students.

The Croatian, German, Slovak, Romanian and Serbian minority self-governments operate independent school centres.

In 2011 the Minister of Public Administration and Justice established a study grant for secondary school students participating in education in a minority language in order to promote their participation in higher education.

What measures and programmes are available to make the culture of minorities part of the national culture in a way that minorities can at the same time retain their own cultural identity?

Legal regulations in effect provide guarantees for the collection, making available and support of cultural values of minorities as part of the common intellectual and material heritage of the country.

Hungary cherishes the cultural values represented by its minorities as part of our common intellectual and material heritage, and supports their preservation and development. There are many minority or minority supporting institutions, communities and creative artists in the field of public education, arts and public collections that are integral parts of Hungarian cultural diversity.

In the framework of the EU presidency tasks Hungary made efforts to induce the EU to launch as many programmes as possible which support civil initiatives aimed at the preservation of cultural diversity, and thereby promoting cooperation between majority and minority groups living in the region, and promote mutual familiarization with, as well as the preservation and development of universal cultural values.

What radio and television programmes are available in the language of the minorities?

Act CLXXXV of 2010 on the Media and Info-communications (hereinafter: the Media Act) sets forth that the objective of public service media (Section 83) is, inter alia, to meet the demands of national and ethnic minorities for the media, to introduce their culture, to foster their mother tongue and to introduce the culture of minorities living in Hungary to Europe and to the world.

Radio programmes in the languages of minorities are broadcast 12 hours a day (between 8 a.m. and 8 p.m.). Television programmes can be seen on the Internet, and negotiations are currently underway with the bodies supervising public service media about a possible change of the airtime of minority television broadcasts.



RADIO

Minority programmes are broadcast in the public radio through an independent (AM) network. The radio channel MR-4 broadcasts programmes for all the minorities living in Hungary. Programmes in Croatian, German, Romanian, Serbian and Slovak are broadcast 120 minutes a day, and programmes in Bulgarian, Greek, Polish, Armenian, Rusyn, Slovenian and Ukrainian are broadcast 30 minutes per week. The Roma minority has 60 minutes airtime five days a week.

The management of the Hungarian Radio established the timetable of the radio broadcasts after discussions held with the national minority self-governments.

TELEVISION

The public service Hungarian Television (MTV) broadcasts television programmes in the mother tongue for the national and ethnic minorities in Hungary. The weekly airtime for all minorities is 416 minutes including reruns. Minority programmes are transmitted on the terrestrial channel M1 of MTV from 1.30 p.m. until 2.30 p.m. Mondays through Thursdays.

As is commonly known, a comprehensive media regulation took place in Hungary in 2010. A Public Service Board (the Board) was set up in March 2011 for the civil supervision of the public media. The tasks of the Board include monitoring of the implementation of the principles of public service and ensuring civil control over public service media providers. The Public Service Board consists of 14 members and includes delegates of organisations defined by law, including the joint delegate of the national self-governments of the national and ethnic minorities in Hungary. This new form of representation may contribute to the earliest possible solution of the airtime problem of minority programmes in the Hungarian Television.

The Government's Office of the State Secretary Responsible for Minorities maintains continuous consultation with the leaders of the National Media and Info-communications Authority, the Hungarian Television as well as the Media Service Support and Assets Management Fund in order to answer questions raised by minority advocacy organizations and to develop optimum solutions.



ON SOCIAL INCLUSION OF THE ROMA

Did you know that the Roma issue was one of the high priority areas for Hungary when taking the presidency of the Council of the European Union?

On 5 April 2011 the European Commission adopted a communiqué titled 'EU framework for national Roma strategies for the period until 2020'. The communiqué invites the Member States to a more efficient response and more comprehensive approach and urges them to define attainable national targets for the inclusion of the Roma in the four priority areas: education, employment, health care and housing, as well as to provide adequate budgetary resources and to set up efficient control mechanisms and monitoring system.

The Roma Platform held its meeting in Budapest on 7–8 April 2011. A major cultural event took place on the first day of the conference providing an opportunity for talented Roma artists to introduce themselves. The communiqué by the EC published on 5 April was introduced on the technical day of the conference, and Ms Livia Járóka, Member of the European Parliament presented the position adopted by the EP on 9 March. The participants addressed dilemmas related to the crisis map to be prepared by the Board, and the material for discussion including related proposals.

Do you know how Hungary helps people living in disadvantaged regions and those of Roma origin?

The Government determines the tasks and proposals for solutions in the National Strategy for Social Inclusion and Roma Strategy (2011–2020) and in the related three-year action plan at the end of 2011. In order to design and implement programs aiming effective social inclusion, methodological review of already existing programs for bettering the living conditions of the Hungarian Roma population as well as a concretized action plan have been necessary. Both of the inclusion strategy and the action plan need to target all those ones living in need, however methods and measures promoting specifically the actual inclusion of the Roma population had to be highlighted. To this end the Hungarian Government adopted the National Social Inclusion Strategy including its action plan for 2012–2014 which delineated concrete measures, deadlines and responsible bodies regarding the field of child well-being, education, employment, health, housing, involvement of stakeholders, and anti-discrimination. The Hungarian Government adopted the National Social Inclusion Strategy on 30 November 2011, which was sent to the European Commission by the State Secretary of Social Inclusion (Ministry of Public Administration and Justice) first among the member states. By doing so, Hungary fulfilled the commitments undertaken within the European Framework Strategy on Roma Inclusion. The Strategy is created in a complex fashion: It determines tasks for both short and long run. Furthermore, it synchronizes all the fields of social inclusion into one single system, therefore governmental and institutional interventions, various programs and participants will be able to operate more efficiently toward a common purpose in the future.

The Strategy pursues to operate in a well tuned fashion as each ministry needs to take in account the principles of the social inclusion during its operation.

The main principles of the Strategy:

- **Activation:** It is important to motivate currently inactive but able-to-work people and make them responsible for their own fates.



- Performance: The socially subsidized ones are expected to perform
- Coordination: Reconciliation of various policies
- Complexity: The four priority areas namely employment, housing, health, education must be handled in a harmonized way
- Monitoring: Setting up a monitoring and controlling system is of crucial importance in order to prove the efficiency and the targetedness of the different interventions.

Did you know that in 2011 the Hungarian Government and the National Roma Self-government concluded a unique framework agreement?

The purpose of the Framework Agreement is to strengthen the co-existence of the Roma and the majority society and to build a common future.

Objectives of the Agreement:

- Improvement of the living conditions and promotion of the social inclusion of the Roma
- Creation of jobs and strengthening cooperation in the field of education
- Putting an end to abuse of power
- Awareness-raising about a Roma inclusive, discrimination-free common interest
- Establishment of a co-decision system with the National Roma Self-government.

The Parties formulate their support to the following joint objectives, to be achieved by 2015:

- Providing jobs for 100,000 unemployed Roma;
- Implementation of a comprehensive educational reform programme that will allow 20,000 Roma youth to learn skills competitive in the market in 50 vocational training schools which participate in the compensatory education programme. Moreover, they support the studies of 10,000 young Roma in programmes leading to the A-level (certificate of secondary school final examination), and help the preparation of 5,000 talented Roma youths to meet the conditions to participation in tertiary education;
- In the field of vocational training and adult education, marketable vocational training extended to about 50,000 Roma adults whose educational attainment is no higher than vocational school, and the involvement of another 80,000 Roma adults in basic skills development programmes (literacy, numeracy, IT);
- Involvement of 150,000 Roma in organised medical screening and continuous counselling regarding a healthy lifestyle.

Did you know that the Hungarian Government allocated substantial funding for the launching of the Christian Roma Boarding School Network?

Established by the four historical Churches (Reformed Church, Greek Catholic Church, Lutheran Church, and the Jesuit Order of the Catholic Church), the Colleges are designed to promote the integration and provide higher education to gifted young Roma. Four cities, Budapest, Debrecen, Nyíregyháza and Miskolc have already launched their Colleges for Roma students studying in tertiary education.

The Colleges endeavour to deepen the social and national sensitivity, strengthen the Roma-Hungarian identity, and promote studies, education, personal development of their students along the lines of communal responsibility, dedication to Christian values. One of their main objectives is to develop Hungarian-Roma intellectuals. The operation of the Colleges is financed by budgetary funds at the early stage, and further on



by EU tenders with the aid of the historical churches.

Did you know that Hungary has a National Strategy ‘Making Things Better For Our Children’?

In 2007 the Hungarian Parliament adopted a 25-year strategy to counter child poverty and to promote opportunities for children. The objective of the National Strategy “‘Making Things Better For Our Children’ is to significantly reduce the rate of poverty among children and their families over the course of a single generation, to a fraction of the current level; to eliminate the exclusion of children and the extreme forms of abject poverty; and to transform the mechanisms and institutions which today reproduce poverty and exclusion. In order to implement the strategy, the Government must prepare three-year action plans. The first action plan was drafted for the period of 2007–10; the next action plan for 2011–14 is under preparation.

Did you know that the Government pays special attention to cooperation with Roma NGOs?

The Government established the Roma Coordination Council for the development and implementation of measures promoting the social inclusion of the Roma population and for the expression of opinion on the results. The Council has 27 members, of which 6 members attend to represent the Roma communities. Furthermore, the Council comprises of representatives of National Roma Self-Government, representatives of historical churches, delegates of the Hungarian Academy of Science and the National Association of Local Governments.

Did you know that it is no longer possible to create classes for children with special learning needs the so called ‘corrective classes’?

The possibility to setting up so-called ‘corrective classes’ operated earlier for children with learning difficulties is discontinued. Pupils cannot be segregated because of adaptation, learning and behavioural deficits; compulsory schooling must take place together with other children in the school at the family’s place of residence or in the school of the family’s choice.

Based upon a 2004 social science research, more than half of the schools examined had classes with curricula deviating from the standard. Since then, approximately half of these were discontinued. Most of these classes (30%) were discontinued in 2007 and the declining trend has continued since. It is a significant achievement that the decrease has taken place mainly in schools with a Roma majority.

The process is supervised by the ombudsman for minorities, the Equal Treatment Authority, the commissioner for educational rights and many non-governmental organisations.

Did you know that the Government promotes the prevention of dropout of Roma youths from schools by introducing new educational best practices?

The objective is to help disadvantaged, mainly Roma, students catch up in an integrated fashion by supporting pilot programmes and collecting best practices in the framework of the ‘School Net’ programme. The School Net programme is an initiative with an eye to the future which aims to discover courses of study that may shape the overall school system, mentality of teachers and the pedagogic trends. These courses are set up in schools where disadvantaged pupils are overrepresented and where their wider environment faces the same social and economical problems. In the framework of the School Net program, development



of methods, services aiming to improve the basic and communication skills of disadvantaged pupils and compensatory projects can be supported financially from domestic resources. The School Net program also aims to implement projects focusing on the “bridge between schools” and school reintegration. The program financially facilitates restorations, restructurations and acquisition of low-value assets, as well. In the organization of events and recreational activities inclusion of parents is obligatory.

How can discrimination-free access to the labour market and employment of the Roma population be improved?

In order to facilitate access to the labour market, decentralised employment programmes, EQUAL programmes and public employment programmes have been launched. Moreover, support programmes were also started with the contribution of the National Public Foundation for Employment. In addition, employment of the Roma is promoted by grants supporting job creation projects, as well as by training subsidies.



ABOUT WOMEN AND CHILDREN

What kind of proactive programmes are in place to prevent domestic violence?

The Crisis Management Network set up for victims has been working since 2005. The network operates crisis shelters to provide accommodation, and also facilities known as “half-way houses”. The most important features of the programme include immediate protection and assistance for abused persons. These services have been regulated in the framework of the Act on the Protection of the Child since 2011.

What help lines, shelters and emergency services are there to accommodate children and mothers with children?

The State supports three nationwide psychological telephone help lines from the central budget. Among these, the Blue Line Foundation for Children in Crisis is the second organization in Europe to operate the European telephone numbers designated as help line for children and the number to assist missing children (116.000 and 116.111).

Under the Act on the Protection of the Child, temporary homes for children (at present there are 26 such institutions in the country), and children’s homes accommodate children who voluntarily left their home and remained without care and supervision at 350 locations all over the country. Temporary homes for families provide joint accommodation for children and parents currently in 143 facilities throughout the country. It is mandatory for temporary homes for families to provide shelter for pregnant mothers as required.

What financial resources are available for the implementation of the social, cultural and economic rights of children?

Protection of children is the duty of the State and of local governments. The Budgetary Act, as amended from time to time, provides funding for the various pecuniary, in-kind and personal care and services under the Act on the Protection of the Child and the Act on the Support of Families.

Several benefits are provided for children raised in their own families from budgetary resources, such as:

- family allowance, support for attending pre-school, advance on child support, regular child protection allowance, supplementary child protection support.

In addition to the pecuniary benefits extended to the children raised in their family, in-kind services are also provided from the budget:

- free meals during the school year and in the summer recess, free supply of textbooks for financially disadvantaged children.

What actions have been taken for the central registration of children available for adoption?

Once Hungary had signed The Hague Convention on inter-country adoption, the competent ministry set up the Central Authority for the preparation of inter-country adoption in 2005. The duty of keeping a national register for adoption was allocated to the ministry responsible for the protection of children in 2006 with a view to more efficient and transparent operation.



The national register maintained by the Ministry of National Resources is aimed at promoting adoption in this country and if there is no likelihood for adoption within the country, the approval of inter-country adoption.

The national register of adoption is updated continuously. Statistics are made from the data on record, which promote professional supervision of the area.

What are the professional and objective criteria for removing children exposed to danger from their family?

In compliance with the provisions of the Act on the Protection of the Child, a child can be removed from the family in an emergency situation by the guardianship authority of the municipal clerk, the guardianship office, the police, the prosecution service, the court, the head of the penal service and, in the case of a foreign minor residing in Hungary without an accompanying adult, by the head of the immigration office. Under the Act on the Protection of the Child, it is required and justified to raise children in the family they were born. Removal from the family can be resorted to only in cases where care in the natural family failed and removal is in the interest of the child. In the first instance, the child must be placed in the custody of the other parent living separately, or of other relatives, or if this is not possible, they can be placed with foster parents or in a home for children. An expert committee examines the necessity of removal, and the decision of the guardianship office can be challenged in court.

What instruments does the State have to assist with bringing up children in the family?

The Act on the Protection of the Child sets forth as one of the most important right of the child that children must be raised in their family environment ensuring their physical, intellectual, emotional and moral development, and they should receive appropriate help from the State to this end. With a view to this objective, basic child welfare services, benefits and in-kind services, for instance free meals, are provided for the children in need in crèches, pre-schools and primary schools, together with free school textbooks. In the framework of taking the children into custody, the guardianship authorities of municipal clerks can oblige the family to cooperate with the child welfare service provider, and require them to make use of the day-care services and temporary care in order to eliminate the exposure of the child to danger and to avoid his or her removal from the family.

What programmes are available in support of child victims and their social integration?

Under the Act on the Protection of the Child, it is the duty of municipal child welfare services throughout the country to prevent and eliminate the endangerment of children. For this purpose, the service operates a detection and alert system in the local community, therefore information about child abuse is obtained primarily from the members of the alert system through reporting or ex officio. Psychological care of the children exposed to violence or sexual abuse must be provided in the educational advisory centres and child welfare services operated by local governments.

Numerous civil society organisations help the victims of violence, particularly Women for the Women, Association against Violence, Federation against Child Abuse, Habeas Corpus Public Benefit Legal Protection Association, and E.SZ.T.E.R. Foundation. It is also important that a growing number of civil society organisations should join the stages of prevention and problem management as well.



What tools does the State use to promote equal opportunities for children with disabilities?

The State provides increased family allowance and schooling benefit over a significantly longer period of time to parents raising children with disabilities.

The Act on Public Education promotes the efficient education of pupils with special educational needs through additional services and positive discrimination rules. It also determines the conditions of education and reporting adjusted to the individual capabilities of the pupil; furthermore, it specifies the rules of rehabilitation and developmental occupation of these pupils.

It is a major progress that from 2017, an act will create the possibility of bilingual education for children with hearing impairment, where teaching involves two languages: sign language and spoken language. Learning the various subjects with the help of this method, children with hearing impairment are expected to acquire enhanced and more competitive vocational skills or continue their studies in higher education.

What benefits does the Government provide through the family support system to disadvantaged families with several children or to families raising children with severe disabilities?

The Hungarian family support system helps disadvantaged families and families raising several children or children with severe disabilities through a variety of benefits building on each other.

Family allowance is a pecuniary benefit complementing the educational and schooling expenses of the child. Family allowances of higher amounts are granted to families raising three or more children, to single parents raising a child or children, as well as to persons raising a child or children with a sustained illness or severe disability.

The family tax benefit supports families through the taxation system.

Regular child protection support provides targeted assistance for the families of children in need. This support consists of a grant extended twice a year on the one hand, and provides access to certain in-kind services on the other hand. Eligible children receive free meals in crèches, pre-schools and in all grades of primary school, and 50% subsidy on meals in secondary schools, as well as free school textbooks. Families of young children with multiple disadvantages receive pre-school support to promote their children's pre-school attendance.

Child care benefits (flat rate child care benefit, child support, maternity support, wage-based child care support) are benefits which supplement the income of parents with young children.



ABOUT THE SOCIAL RIGHTS, SITUATION OF PEOPLE WITH DISABILITIES

How does the Government support the living expenses of people with minimum wage?

In the context of the Hungarian social welfare system housing support regulated by the Social Act subsidizes expenses related to the maintenance of residential premises and non-residential premises used for dwelling inhabited by the socially needy and their families. Since September 2011, not only the most deprived families are eligible to receive this benefit but also a growing range of people struggling with livelihood problems. The extended normative housing support provides compensation for housing expenses to an estimated 900.000 households.

What social welfare programmes are available for disadvantaged and marginalized families and social groups?

In the Hungarian social welfare system the various forms of social benefits and the eligibility conditions are provided for by the Act on Social Provision.

The role of certain services is primarily to provide a minimum income for persons who, for some reason, do not have an income securing their livelihood. Such provisions include benefits for senior citizens who reach retirement age but have their pension is not sufficient for their subsistence; regular social benefits granted to active age persons who are unemployable; and nursing fee provided for the persons engaged in the nursing of a family member in need of nursing.

Other provisions offset the expenses incurred by the family; for example, contribution to the upkeep of the home to assist with the costs of running a home, and prescription exemption certificate granting free prescription drugs to persons in need of regular medication.

Moreover, pecuniary and in-kind provisions are also granted to the families in need for the upbringing and schooling of their children in accordance with the Act on the Protection of Children.

What actions have been taken to extend the services provided by shelters for the homeless and to improve their conditions?

The State supports organisations that offer services to homeless people, whether operated by local governments, NGOs or religious organisations. In addition to these allocations the public foundation established by the Government in the area invites applications for funding. The amounts awarded are also paid out of the State budget.

These programmes include several components which serve the renovation and upgrading of the facilities operated by the institutions. Housing grants are also provided homeless applicants who are capable of independent living along with the social assistance needed for their reintegration. The new Government strategy on the homeless is under preparation, and will include important steps for the improvement of the living conditions of homeless persons.

How will the conditions of institutionalized people with disabilities be improved?

The Act on the Rights of Persons with Disabilities provides that social facilities offering residential nursing and care to more than 50 persons with disabilities must be replaced. This concerns almost 12.000 persons with disabilities living in residential nursing institutions, and requires the transformation of the entire system of provisions. As a result of the transformation the residents in these facilities will be able to carry on an independent



life supported by services adjusted to their needs and capabilities. Assisted living is defined as the combination of housing service and assistance provided in support of independent living. By the end of 2013 as many as 1.500 spaces in institutions will be replaced by smaller, community-based homes with co-financing from EU funds.

How is the education of pupils with disabilities accommodated in mainstream public education?

Every child must participate in compulsory education regardless of their capabilities or health. The Act on Public Education provides for the care of children and pupils with disabilities and sets out the rules of extending them advantages.

In their local curricula schools teaching pupils with special educational needs can determine a period longer than one school year for mastering the material of school subjects.

At examinations, including the secondary school final examination (matura), students with special educational needs are allowed longer preparation time. Special vocational training schools can be established for students who cannot progress at the same pace as their peers due to their disabilities. Applicants with disabilities seeking to study in higher educational institutions are awarded bonus points in the admission procedure for undergraduate programmes. At examinations, they are granted a longer period of preparation; they are allowed to use special devices (typewriter, computer, etc.) for written tests, and if necessary, written tests are substituted by oral tests and vice versa.

What actions are taken to eliminate discrimination on the grounds of disability?

In Hungary the Constitution and several acts prohibit discrimination on the grounds of disability and determine the sanctions and other possibilities of legal protection applicable in case of an infringement. Implementation of the statutory provisions is ensured by an extensive system of legal protection institutions. Legal protection falls within the sphere of competence of the Equal Treatment Authority, the parliamentary commissioner for the rights of citizens and the National Council for Disabilities.

Specific actions to be taken by the Government are set out in the National Programme for Disabilities and the medium-term action plan as drafted from time to time on the basis of the Programme.

What funds are available for the full-fledged implementation of the accessibility programme?

In Hungary the law provides for equal opportunities in respect of access to public services offered by the Government and local governments.

The fulfilment of this obligation has been continuously subsidized since 2007 predominantly from EU funds. Grants are essentially available for beneficiaries through two channels: either through calls for applications designed specifically for the purpose of accessibility, where funds can be secured exclusively for ensuring or improving physical and info-communication accessibility; or through the so-called project-related proportional obligation of ensuring accessibility. The essence of this is that in case of infrastructure development projects funded by the EU it is mandatory to ensure external and internal accessibility of buildings or part of buildings involved in the project. As a result, access with equal opportunities is a mandatory component in all school or hospital reconstruction or renovation projects. An important progress is the promotion of the concept of universal planning, which makes it possible that buildings, services and objects used in everyday life are designed a priori with equal opportunity in mind, thereby obviating the need for later conversions for accessibility.



ABOUT THE MIGRATION/REFUGEE AFFAIRS

What determines Hungary's legislation and jurisprudence with respect to migration and refugee affairs?

The international covenants to which Hungary is a party are key factors in the Hungarian legislation and jurisprudence with respect to immigration and refugee affairs – thus, in particular, the 1951 Geneva Convention and Protocol relating to the status of refugees, the 1950 European Convention for the protection of human rights and fundamental freedoms, the 1984 Convention against torture and other cruel, inhuman or degrading treatment or punishment, as well as other human rights conventions.

As Hungary is a Member State of the European Union, the Hungarian law on immigration and refugee affairs must be in compliance with the relevant European laws. Hungary has enshrined the EU legal standards relating to immigration and refugee affairs in its national legislation.

How many foreign nationals are there in Hungary?

Compared to other Members States of the European Union, the number of foreign nationals in Hungary is relatively small: according to the data of the Central Statistical Office, the number of foreign citizens staying in Hungary on 1 January 2011 was 206.800 (about 2% of the country's population).

Which countries do foreign nationals come from to Hungary?

As a result of a process stretching over several decades, a substantial portion (over 80%) of the immigrants residing in Hungary come from Europe, the most typical countries of origin (in descending order) being Romania, Serbia, Ukraine, Germany, Poland, Russia, Slovakia, Croatia and Austria. A substantial number of the non-European immigrants come from Asia, more specifically from China (in accordance with the data of the Central Statistical Office the number of Chinese with a Hungarian residence permit was 11.173 in 2010).

In compliance with the relevant EU regulations and in harmony with the right to free movement in the territory of the Union of citizens and family members of the EU Member States and of certain European countries, Hungarian legislation divides aliens into two major groups: *foreign nationals with the right to free movement, and the third country nationals without the right to free movement.* (Any country that is not an EU Member State or has not signed an agreement with the European Union on granting the right of free movement to its citizens is a third country.)

Who are asylum seekers, refugees, protected persons and landed immigrants? How many of them entered Hungary and from where?

A refugee is a person who, due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, because of such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.



A person with subsidiary protection, pursuant to the Directive 2004/83/EC of the European Union and the Hungarian law based on it, is a foreign national who does not qualify as a refugee but in respect of whom there is reasonable ground to believe that, if returned to his or her country of origin he would face a legitimate risk of suffering serious harm and is unable or, because of such risk, unwilling to avail himself or herself of the protection of the country of origin. Serious harm is the threat of capital punishment, torture, cruel, inhuman or degrading treatment or punishment; and in the case of non-military persons, serious threat to life or corporeal integrity consequent to indiscriminate violence applied in the course of international or internal armed conflicts.

Landed immigrant under Hungarian law is a foreign national who temporarily cannot be returned to his country of citizenship because he would face capital punishment, torture, cruel, inhuman or degrading treatment or punishment and there is no safe third country which would accommodate him but he is not eligible for recognition as a refugee or stateless person or for other forms of protection.

Asylum seeker is the foreign national who is seeking asylum in Hungary, that is, applying for one of the three statuses above.

(The number of asylum seekers in Hungary in 2010 was 2.104. In the same year the authority of refugee affairs recognised 74 foreign nationals as refugees, 115 persons as beneficiaries of subsidiary protection, and 58 persons as beneficiaries of temporary protection. Most of the asylum seekers in 2010 arrived from Afghanistan, Kosovo, the Palestinian territories – West Bank and the Gaza Strip –, Georgia, Iraq, Iran or Serbia. In 2010 the main countries of origin of refugees and foreign nationals with subsidiary protection were Somalia, Iraq and Afghanistan, the main country of origin for the beneficiaries of temporary protection was Afghanistan.)

Why can the foreign nationals be detained and what are the conditions in custody?

There are two cases in alien administration when custody of a third country national can be ordered: for the clarification of personal identity or determination of the lawfulness of stay of the third country national in preparation for expulsion (pre-expulsion custody); or in the case of readmission of a third country national not complying with the conditions of entry or residence in cases specified by law (alien administration custody). The immigration authority may order custody for a maximum period of 72 hours; the court may extend this term and in this way, continuous court supervision ensures that custody is lawful and is kept as short as possible. The longest permitted term of pre-expulsion custody is 30 days, and the longest permitted term of readmission custody is six months as a main rule, which can be extended to no more than twelve months in special cases defined by law.

No pre-expulsion custody or alien administration custody can be ordered solely on the basis that the third country national filed an application for asylum. No custody can be ordered against a third country minor, with the exception of cases where custody is ordered vis-à-vis a family with minors – in this case the longest permitted term of custody is 30 days and custody can be ordered only as an ultimate measure if the immigration authority determines that the objective of ordering of custody cannot be achieved in any other way.

More lenient rules included in Act I of 2007 apply to third country nationals entitled to freedom of movement – i.e., the authorities have a more limited scope of action in their regard. In their case, only pre-expulsion custody can be ordered, the longest period of which is three months.



Alien administration custody is implemented in facilities operated by the Police, in so-called guarded shelters, where detainees can only be third country nationals held for alien administration reasons, i.e. not as a penal measure. Guarded shelters have open cells. Members of the same family (as well as married couples) are accommodated together, separate from other detainees, in a living area meeting the basic requirements of family life. Foreign nationals held in the guarded shelters are provided medical care and meals with respect to their religion, and they have the opportunity to stay outdoors. They are entitled to keep in touch with the outside world: they can make phone calls, write letters and receive visitors. Furthermore, they are entitled to contact their legal representatives, the representatives of human rights organisations and officials the authority authorised to monitor the custody. The Police is responsible for the appropriate living conditions for the foreign nationals accommodated in guarded shelters, which is ensured by means of State funds and financial resources awarded through applications (including grants from the European Return Fund).

What is the principle of non-refoulement and how does Hungary ensures its enforcement?

Non-refoulement is a principle in international law whereby no one can be returned to the territory of a country which is not recognised as a safe country for the person, i.e. where he would be subjected to torture, cruel, inhuman or degrading treatment or punishment or capital punishment because of his racial, religious, national affiliation, belonging to a specific social group or because of his political opinion.

For the enforcement of this principle, under the Hungarian law in each procedure where a third country national could be expelled from the territory of Hungary the authority must examine whether such a measure would be in conflict with the principle of non-refoulement, that is, the authority must make sure whether there is a safe country where the third country national can enter. In most of the cases, the opinion of the immigration authority must also be sought regarding this issue.

An important guarantee of enforcement of the principle of non-refoulement is the entirety of regulations ensuring access to asylum procedure. These rules ensure that a person concerned about the possibility of exposure to treatment contrary to the principle may seek asylum in Hungary. Therefore, the Hungarian law permits third country nationals to seek asylum at any time. If the third country national declares his intention to file an application for refugee status in the course of alien administration, administrative or criminal proceedings, the authority in charge must notify the refugee authority without delay.

The tripartite convention in effect since 2007 concluded between the Police, the United Nations High Commission for Refugees (UNHCR) Regional Representation for Central Europe, and the Hungarian Helsinki Committee (MHB) allows MHB to monitor observation of the non-refoulement principle in the practice of the Police. MHB thus oversees the Police' observation of right of asylum seekers to enter the country and file the application for asylum, as well as treatment and legal practice regarding third country nationals held by the Police. Detailed reports are made and published about these activities annually or biannually.

What steps are taken by Hungary to improve the living conditions of asylum seekers and refugees in the country?

Hungary makes efforts at improving the living conditions of the asylum seekers and refugees on an ongoing basis. The services and grants provided for asylum seekers meet the requirements of Council Directive 2003/9/EC laying down the minimum standards in this respect.



With a few exceptions, refugees and beneficiaries of subsidiary protection enjoy rights equal to those enjoyed by Hungarian citizens. Moreover, the refugee law and the relevant sectoral regulations provide a number of additional support services for refugees and beneficiaries of subsidiary protection in the various areas of life (language learning, education, accommodation, healthcare and welfare services, and acquisition of citizenship).

The Ministry of Interior supports programmes to improve the living conditions of both groups supplementing the measures above and also involvement of the State through grants from the European Refugee Fund. A relatively wide range of non-governmental and religious organisations also assist with the improvement of living conditions and in case of refugees, their long term integration.

Who are the stateless persons and how does Hungary protected them?

A stateless person is a person who is not recognised by any of the states as their citizen under their own law. Statelessness may arise for the most diverse reasons, for instance, it can be caused by the ceding of state territory, legal regulations with respect to marriage, public administration practices, detrimental discrimination of certain groups of people, lack of registration of birth, denaturalisation (when the state takes away the citizenship of a person), and renunciation of citizenship (when the person concerned refuses the protection of a given state). In addition to being a major grievance in itself, lack of citizenship in general leads to severe violation of the rights of stateless persons: in many of the cases stateless persons cannot exercise their most fundamental rights and they cannot acquire the protection of any state.

Hungary regards the protection of the stateless an important task together with the elimination of statelessness. In order to reinforce the international legal approximation of the Hungarian migration and naturalization laws, Hungary has signed all the international conventions for the protection of the stateless and for the elimination and mitigation of statelessness. Furthermore, as of 1 July 2007 Hungary created a new legal institution of proceedings for the recognition of statelessness and thus belongs to the few European Union Member States which boast of comprehensive independent rules of procedure that provide guarantees similar to those in refugee status determination procedures and is adjusted to the requirements of this special group of persons. The Hungarian proceeding for the establishment of statelessness is also recognised internationally, it is a legal mechanism recognised and studied by the UN High Commission for Refugees and by foreign states.

(The proceedings for the establishment of statelessness have operated smoothly over the past four years in practice. The rate of recognition is relatively high [70%], although the number of persons recognised as stateless is relatively low, [fewer than 50 per years]. Travel documents for the stateless enabling visa-free travel in the territory of the European Union were issued to about 290 people from 1 July 2007 until the end of April 2011.)

Persons recognised as stateless by the Republic of Hungary are provided a residence permit for humanitarian purposes valid for three years, which can be extended by no more than one year from time to time. After three years of continuous and lawful residence in Hungary, the person recognised as stateless may apply for a national permanent residence permit. Stateless persons may seek employment in Hungary in accordance with the general rules applicable to foreign nationals, they are entitled to the essential medical services irrespective of whether they have health insurance or not, and stateless children may participate in education under conditions equal to those granted for Hungarian children.

