

**THIRD, FOURTH AND FIFTH PERIODIC NATIONAL REPORT OF  
HUNGARY  
UNDER ARTICLE 44 OF THE CONVENTION ON THE RIGHTS OF THE CHILD**

**28 June 2012, Budapest**

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## **I. Annex: Statistical information and data**

## Introduction

Concerning the implementation of the Convention on the Rights of the Child, Hungary submitted its 1<sup>st</sup> and 2<sup>nd</sup> Periodic National Reports in 1996 and 2004 to the Office of the UN High Commissioner for Human Rights.

The following combined 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Periodic National Report examines the period 1 February 2004 to 1 February 2012, also addressing the modifications of legal regulations that have occurred.

This National Report was written on the basis of the Treaty-specific guidelines adopted by the Committee of the Rights of the Child on 23 November 2010 and the concluding observations to Hungary (No. CRC/C/HUN/CO/2) on the Committee's meeting of 27 January 2006.

This Periodic Report was made by the Ministry of Human Resources, Ministry of State for Social, Family and Youth Affairs, Department of Child Protection and Guardianship Affairs with participation of the following organizations and institutions:

- Ministry of Human Resources, Ministry of State for Healthcare
- Ministry of Human Resources, Ministries of State for Education and Sport
- Ministry of Human Resources, Ministry of State for Culture,
- Ministry of Human Resources, Department of Childcare and Social Services
- Ministry of Human Resources, Department of Family Policy
- Ministry of Human Resources, Department of Disability Issues
- Ministry of Human Resources, Youth Department
- Ministry of Human Resources, Department of Benefits and Allowances
- Department of EU and International Social Affairs
- Ministry of Interior
- Ministry of Public Administration and Justice,
- Ministry for National Economy
- Ministry of Foreign Affairs
- Ministry of Defence
- Office of the Commissioner for Fundamental Rights
- the Prosecution Service of Hungary
- the Curia of Hungary
- National Institute for Family and Social Policy
- Equal Treatment Authority
- National Rehabilitation and Social Office
- Hungarian Central Statistical Office

Statistical data concerning the years 2004-2012 are included in the Annex of this Report. Regarding those questions where Hungary has no official statistics, no data could be provided.

## Point 18

Concurrently to acceding to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Hungary made a declaration that the minimum age for joining the armed forces (the Hungarian Defence Forces) **at any time shall be above the age of 18 years**. This is reinforced by the new legislation on national defence, Act CXIII of 2011 on defence and the Hungarian Defence Forces and the measures that may be implemented in a state of emergency, Section 5 (4): the lowest age limit for military service shall be above the age of 18 years.

Promulgated in Act LXIV of 1991, the Convention on the Rights of the Child, adopted in New York on 20<sup>th</sup> November 1989 (hereinafter referred to as the Convention), and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ratified by Act CLXI of 2009, have received no declarations or reservations on behalf of Hungary.

## Point 19 a

Article Q, Paragraphs (2) and (3) of the Fundamental Law of Hungary, entered into force as of 1st January 2012 declare that in order to comply with obligations under international law, Hungary shall ensure that Hungarian law be in conformity with international law.

The legal base for child protection is also enshrined in the Fundamental Law of Hungary. Its Article XVI, Paragraph (1) contains a particular provision dedicated to child protection: "Every child shall have the right to the protection and care necessary for their proper physical, intellectual and moral development."

The scope of basic rights and obligations listed within the "Freedom and Responsibility" Chapter of the Fundamental Law includes several rights that are also listed by the Convention. Among others, anti-discrimination is laid down in Article 2, the right to life in Article 5, the freedom of expression in Article 13, the freedom of thought, conscience and religion in Article 14, the right of association and peaceful assembly in Article 15, the right to social security in Article 26, the right to education in Article 28, the prohibition of torture in Article 37; furthermore, the right to an independent and impartial court and the right of appeal are set forth in Article 40, including the presumption of innocence in Point 40(i).

Article L, Paragraph (2) of the Fundamental Law sets forth that Hungary shall support the commitment to have children, while its Paragraph (3) rules that the protection of families shall be regulated in a cardinal act.

Act CCXI of 2011 *on the protection of families* (hereinafter referred to as the Family Protection Act), entered into force on 1 January 2012, sets forth that a family is an autonomous community which rests on moral grounds, family is the most important national resource of Hungary, growing up in a family is safer than any other possibility; moreover, there is no well-functioning society without harmoniously functioning families.

The Act lays down the objectives and basic principles of the protection of families, designating the responsibilities of the State, and declares that in order to enable every child to be brought up in a family, the State shall support adoption and shall strive to establish a fast adoption procedure which is completed within reasonable time, bearing in mind the interests of children.

The regulation of the rights and obligations of parents and children is an important part of the Act. The Act includes, in particular, the obligation of the parents of minors to respect the human dignity of their children, to cooperate with their children, to inform their children about the issues that affect them, to cater for the supervision of their children, moreover, the parents' obligation to use all support received in respect of their children to care for and bring up their children. The above provisions of the Act are in harmony with Articles 12, 13, 14, 17, and Article 18 Point 2 of the Convention, as well as with the provisions of Act XXXI of 1997 on the protection of children

and on public guardianship administration (hereinafter referred to as the Child Protection Act) and with those of Act IV of 1952 on marriage, family and guardianship (hereinafter the Family Act).

The codification of the new Civil Code (hereinafter new Civil Code.) is currently in progress, to replace Act IV of 1959 on the Civil Code. Upon its adoption, the new Civil Code would enter into force after one year of preparations. The integration of the provisions of the Family Act into the new Civil Code will facilitate the application of law in practice and provide better information to citizens seeking rights. The new Civil Code's Family Law Book also states that the primary criterion for settling any legal relationship involving a child is the best interest of the child.

In Hungary, the year **2012 is the year of child-friendly justice**. One of the first steps of the child-friendly thematic year has been the amendment and/or supplementation of substantive, civil law and criminal law provisions. The purpose of changes to be introduced in the field of civil proceedings is to guarantee the protection of minors' interests and the implementation of their rights in the judiciary. That is why a proposal for legislation was created, aimed at supplementing **Act III of 1952 on Civil Proceedings** (hereinafter the Act on Civil Proceedings) **in a number of points**.

The creation of a new Criminal Code (hereinafter the new Criminal Code, or new Criminal Code.) is also in progress, aimed at replacing Act IV of 1978 on the Criminal Code, expected to bring about significant changes in the prevention of child labour and suppression of child pornography, in relation to the Optional Protocols. *(To be elaborated in more detail in Point 39 c of the Report.)*

#### Point 19 b

Bearing in mind *Recommendation 10a* of the consideration of the previous country report of Hungary by the Committee on the Rights of the Child, *in its Concluding Observations CRC/C/HUN/CO/2 of 27 January 2006* (hereinafter the Concluding Observations of the Committee), on 31 May 2007 the Hungarian Parliament adopted the National Strategy 2007-2032, "Making Things Better for our Children". (Parliamentary Resolution No. 47/2007 OGY). Its goal is to reduce child poverty rates over one generation, put an end to the exclusion of children and the extreme forms of deep poverty, transform and cancel mechanisms that reproduce poverty and social exclusion between generations. The Strategy designates six areas for improvement: improve the labour market situation; develop benefits in order to improve the material situation of families with children; improve housing conditions and quality; provide services facilitating the development of skills and successful schooling; put an end to segregation; develop personal services and professional care aimed at families with children; ensure a healthier childhood.

Every three years, the Government sets the tasks for the elaboration of legislative, professional and organisational conditions in an action plan, designating the persons responsible, the deadlines and the necessary resources. Government Action Plan for the years 2007-2010 (1092/2007, (IX.29.) Government Resolution) has brought about the following results.

The Sure Start Programme is aimed at children aged 0 to 6 years, its main goal being to create the possibility of early development, with the active involvement of parents. Set up with financing from the Social Renewal Operational Programme supported by the European Union (hereinafter SROP) and the Norwegian Fund, Sure Start Children's Homes will be maintained after the closure of the original financing scheme from central budget commitments earmarked for the use of local governments in the year 2012; according to Act CLXXXVIII of 2012 on the central budget (Annex 5, Point 11) the annual commitment is HUF293 million.

Parallel to that, in accordance with the provisions of the Action Plan, the system of social welfare benefits - both financial and in-kind - has been transformed and further developed. (Elaborated in detail: Point 24, Point 31 b and Point 35)

As of the year 2011, Government set up an Evaluating Committee to assess the National Strategy called "Making Things Better for our Children", consisting of 12 government representatives and 12 representatives delegated by civil society organisations, churches and professional organisations, joined by standing invitees. In its publications on the years 2009 and 2010, the

Evaluating Committee has compiled a report containing comprehensive data and analyses. The evaluation of the year 2011 is in progress.

[http://www.gyerekmonitor.hu/index.php?option=com\\_phocadownload&view=category&id=4&Itemid=5](http://www.gyerekmonitor.hu/index.php?option=com_phocadownload&view=category&id=4&Itemid=5)

Another strategy tackling child poverty is the Hungarian National Inclusion Strategy adopted on the 30 November 2011 Government session, in line with the objectives of the EU Roma Framework that Hungary was the first member state to send to the EU Commission. Its goal is to tackle strategy areas with a decisive bearing on poverty - the strategies on child poverty, the Roma issue and less favoured areas - within a single system, thus facilitating the cooperation among various branches. The use of a single approach is justified by the significant overlaps between the key target groups affected by poverty, since out of the Roma population of about 750 thousand, there are approximately 500,000 to 600,000 people living in deep poverty. A great deal of the approximately 550 thousand children living under the poverty threshold are of Roma origin, moreover, a significant portion of the Roma population is concentrated within the least favoured areas. Concurrently to the Strategy, the Government also adopted an action plan for the years 2012 to 2014, setting specific tasks, responsibilities and deadlines in the areas of child welfare, education, employment, health care and housing and for the involvement of those concerned, to raising awareness and combat discrimination. In the interest of complex task performance, the "Making Things Better for our Children" action plan for combating child poverty has been included in the National Inclusion Strategy.

In the year 2009, the Hungarian Parliament adopted the Hungarian National Youth Strategy (Parliamentary Resolution No. 88/2009 (X.26.) OGY) that has a significant role to raise awareness of the provisions of the Convention and child rights among young people and professionals who deal with them.

The Strategy outlines the optimal directions for youth development on a 15-year time scale, and details the long-term social targets of for youth policy on the basis of reconsidering the role of the State, with a breakdown to sub-targets. In terms of child rights, the Strategy includes the enhancement of legal awareness as a sub-target, necessitating the propagation of teaching materials on child and youth rights in public education institutions and in higher education, their adaptation to public service institutions catering for young people, and the training of teaching staff. In connection to the Strategy, Action Plan 1 adopted by Government for the years 2010 to 2011 (1012/2011. (I.22.) Government Decision) has defined the following child right actions.

Support is needed for raising awareness of child rights in those concerned and for development and methodology trainings for professionals dealing with young people to facilitate reforming their views. *Results are reported under Points g, h and i of the same section.* The policy programme for the years 2012 to 2013, based on the Strategy is elaborated building on processes already started and proven successful and by reflecting on the challenges posed by the economic and financial crisis.

#### Point 19 c

When ratifying the Convention, the Government took on the responsibility for its overall implementation, and the coordination of implementation falls within the remit of the Minister of Human Resources, responsible for the protection of children and young people. The Ministry of Public Administration and Justice and the Ministry of National Defence are responsible for the implementation of Optional Protocols. Concerning the latter, the first country report will be submitted to the Committee on the Rights of the Child this year.

Act CLXXXIX of 2011 on local governments was adopted by the Hungarian Parliament as part of the public administration reform, to enhance the efficiency of the functioning of local governments. The Act re-regulates the remits and jurisdiction of local governments. According to its provisions, kindergarten care, social welfare and child welfare services and care, and nationality issues - among other things - fall within the scope of local public issues and public services to be provided locally, as a responsibility of local governments. On the basis of that, as of

1 January 2012, within the exercise of consolidating the counties, the State has taken over health care, education, child and youth protection and cultural education institutions hitherto operated by county governments, as well as health care institutions operated by the Municipality of Budapest, along with their accumulated debts.

Bearing in mind *Concluding Observations No. 8 and 13* of the Committee, the new regulation will ensure more balanced and uniform funding for child protection institutions.

#### Point 19 d

A significant portion of the budget can be controlled from the action plans tied to national strategies and from reports on them, since the persons and organisations responsible for the implementation of tasks in the interest of goals, the necessary deadlines and material **resources** are defined in those. Programmes aimed at less favoured children including territorial targets, supported by the EU contain significant dedicated resources, out of which the development schemes within priorities 3 and 5 of the Social Renewal Operational Programme are especially important.

In connection to the "Making Things Better for our Children" National Strategy, the rules on daytime care for children are governed by the implementation decrees of the Child Protection Act. Daytime care for children - day nursery, out-of-school care, child minding in family or at home - shall fall within the child protection system, included, more specifically, within the scope of basic child welfare services providing personal care. The legal base for the gradual broadening of the scope of children receiving meals for free is provided by the Child Protection Act. The detailed rules for the requesting, disbursement and accounting of support to local governments for the summer welfare catering for children are laid down in annual decrees by the Minister responsible for child and youth protection.

#### Point 19 e

International development support received by Hungary includes assistance from Structural Funds, the EEA and Norwegian financing mechanisms, and other EU programmes.

#### Point 19 f

At the national level, the Office of the **Parliamentary Commissioner for Fundamental Rights** plays a key role in child right legislation and implementation, functioning as of 1 January 2012, on the basis of Act CXI of 2011 as the legal successor of the Office of the Parliamentary Commissioner for Citizens' Rights, the Office of the Parliamentary Commissioner for National and Ethnic Minority Rights and the Office of the Parliamentary Commissioner for Future Generations, respectively. Children seeking legal remedy may directly address the Parliamentary Commissioner for Fundamental Rights. In the field of the implementation of rights it is of outstanding importance that the Commissioner, acting as a sort of child rights ombudsman, has been operating a Child Rights Project since the year 2008, including the operation of a website for children where children can address the Commissioner with their questions or complaints, and learn more about the implementation of child rights. In 2008, the Commissioner's child right activity was focused on raising the legal awareness of children, in 2009, on the right of children to protection against violence, in 2010, on the role of the family and that of institutions substituting the family, in 2011, on children's health protection issues: access to health care, sexual abuse, child prostitution, protection from harmful habits, physical education and corrective physical education, and healthy eating, respectively. For the year 2012, the target area is child-friendly justice.

On the basis of recommendations made by the Parliamentary Commissioner for Fundamental Rights - *in line with Concluding Observation No. 12 of the Committee* - the Minister responsible for child and youth protection will take the necessary actions: initiate a comprehensive survey and



make a proposal for the amendment of legislation. Accordingly, the following amendments have been made to legislation.

In his report No. OBH 1024/2008, the Parliamentary Commissioner for Fundamental Rights has called attention to shortcomings in the child protection detection and signalling system. For example, in many cases, the members of the signalling system did not fulfil their obligation to signal and cooperate, an omission hitherto not sanctioned with a penalty. In order for the entity exercising disciplinary authority to be informed on every breach of the signalling obligation, a provision of the Child Protection Act, in force since 1 January 2009 has imposed the responsibility on county social welfare and guardianship offices, acting as the second instance authority of guardianship offices, to initiate disciplinary action calling to account the holder of authority in case of breaches of obligation. In more serious cases the social welfare and guardianship office shall initiate criminal proceedings.

On the basis of recommendations formulated in the report No. AJB 316/2011 of the Parliamentary Commissioner for Fundamental Rights, detailed rules were elaborated for procedures to change the place of childcare. The amendment to the implementation decree of the Child Protection Act entered into force in January 2012, according to which the transfer of a child between independent professional units of the children's home shall also be deemed a change in the place of care. This shall entail the need to conduct guardianship office proceedings on the basis of safeguard rules for any changes in the place of care - respecting the rules guaranteeing the representation and the protection of the best interests of the child - , thereby facilitating the enforcement of the right to stability in the education of the child.

In order to reinforce legal protection - *Bearing in mind Concluding Observation No. 12 of the Committee* - , on the basis of the amendment to the Child Protection Act, as of 1 July 2003, the enforcement of child rights has been assisted by **representatives of children's rights**. Until 31 December 2010, representatives of children's rights had acted within the framework of the Public Foundation for Patient Rights, Rights of People in Social Care and Children's Rights, and as of 1 January 2011, the network of representatives of children's rights has been operated by a dedicated unit established for the purpose, the Legal Protection Department of the National Rehabilitation and Social Welfare Office, a background institution of the Ministry of Human Resources. At present, there are 21 representatives of children's rights acting in Hungary, allocated by **counties**, working a monthly total of 3000 hours. A representative of children's rights assists children in learning their rights and enforcing them, and in formulating their complaints, has the authority to initiate investigations and acts on behalf of the child. A representative helps the child to get access to care suited to the condition of the child. In order to enable representatives of children's rights to represent child rights more efficiently, with regard to the suggestions of the Commissioner for Fundamental Rights concerning child rights, legislators have broadened the scope of rights of representatives of children's rights over the years.

As of 1 January 2006, the Child Protection Act has introduced the possibility to apply educational supervision, which entails restricting the personal freedom of a child in child protection care. In the proceedings for ordering educational supervision, the child may be represented before the guardianship office and before court by a representative of children's rights. As of 1 January 2009, guardianship offices shall notify the representative of children's rights of every order of placing a child under child protection system to assess the justification of placement as comprehensively as possible. As of 1 January 2010, the Child Protection Act introduced the institution of child protection administration fine to be applied against child protection service providers violating child rights or not fulfilling their obligations; representatives of children's rights may propose that the fine be levied.

#### Points 19 g, h and i

In order to get children acquainted with child rights – *Bearing in mind Concluding Observation No. 18 of the Committee* - the Convention and its Optional Protocols, periodic reports and their

consideration can be found at the Ministry of Human Resources website in both Hungarian and English, moreover, the Convention is also there in the languages of national and ethnic minorities living in Hungary. Furthermore, the Convention on the Rights of the Child is available at the website in a simplified language, developed primarily for the use of children aged between 8 and 12 years. The website also contains the Hungarian translations of key strategies and positions recently published by the Council of Europe or the EU.

At the conference celebrating the 20<sup>th</sup> anniversary of the promulgation of the Convention, organised by the Ministry of Human Resources (its legal predecessor) and its background institution, the National Family and Social Welfare Policy Institute, the publication called "Implementation Handbook for the Convention on the Rights of the Child" was presented by the Family, Child, Youth Association, developed within the framework of the "You Have Right!" project of the "Civil Society and the Implementation of the Anti-discrimination Act" programme co-financed by the European Union. In addition to the above, they have published another booklet called "I have rights, you have rights, and he/she has rights... About Children's Rights for Adults". The Handbook was compiled first of all for professionals responsible for the enforcement of child rights, commissioned by the United Nations Children's Fund. The publication provides guidelines for the practical implementation of legislation aimed at promoting children's rights. It gathers analyses around the Articles of the Convention formulated by the UN Committee on the Rights of the Child (CRC) during its first 16 years. Implementation is also assisted by over 300 concluding observations, formulated by the Committee as a result of reports submitted by States parties to the Convention. All of that is put in the context of key observations, resolutions and reports by entities parties to other agreements and by the appropriate organisations of the UN. Optional Protocols are included in the Appendix. In addition to the above, several handbooks have been published by child protection institutions in to raise awareness of child rights in those concerned. Nationwide, the most well known package of books is called Child Rights for Small Children, consisting of two books (The Alphabet of Child Rights; Teacher's Handbook to The Alphabet of Child Rights) and a workbook developed for 3 different age groups (Child Rights for Small Children - Bigger Children - Big Ones). The books were published by Agenda Natura publishings in 2006.

The professional conference organised annually on the occasion of the Universal Children's Day singles out one child right area each time to present its status, and in addition to experts from the government and civil society, such conferences are also attended by children as presenters. At the Children's Party („Gyermekbuli”), also held on an annual basis, programmes are organised for socially and otherwise disadvantaged children to promote the prevention of all forms of discrimination, and to prevent children from becoming offenders and/or victims of crime. Interactive and playful programmes teach the participants particular areas of child rights.

It is also indispensable for professional experts dealing with children to learn how to make child rights clear and unambiguous, and easy to understand, experience and accept for children. This is where the Human Rights Education for Young People, called Compass (Kompassz in Hungarian), and Kiskompassz help fill the gap. The Hungarian translation of Compass was published on 13 September 2004, as a result of an agreement between Mobility (Mobilitás) and the European Youth Centre in Budapest. At the same time, "human rights education" started with the Train the Trainer on Human Rights process. As part of that process, regular trainings are held for professional experts dealing with young people (teachers, health care employees, youth workers engaged in child protection and civil society) by the Mobility National Youth Service. These accredited trainings have been incorporated into the teachers' further training system. Furthermore, human rights lessons are organised at schools, in conjunction with by human rights organisations. A model programme for small villages called Szabadon és Méltósággal (With Freedom and Dignity) has been launched, a human rights magazine entitled Humana is published with the professional support of Mobility, moreover, there are a number of trainings and workshops assisting raising awareness of the values of human rights education.

Teaching child rights has been incorporated into the National Curriculum, and, consequently, into local curricula, to be explained in more detail *in response to Section 37, Point d.*

#### Point 19 j

Government cooperation with civil society organisations and children and youth groups can be illustrated with two examples below.

Concerning the removal of children from their family - in order to guarantee the provisions of Article 20 of the Convention - parallel to the activities of the UN Committee on the Rights of the Child - , in 2005 the Committee of Ministers of the Council of Europe adopted a recommendation on the rights of children educated in the child protection institutions of member states. In 2007, Quality 4 Children quality assurance standards were developed accordingly, initiated and coordinated by three large civil society organisations – **FICE** (Fédération Internationale des Communautés Educatives), IFCO (International Foster Care Organization) and **SOS Kinderdorf International**. It was done in conjunction with Hungary, where two of the three professional organisations above, FICE and SOS Children's Villages (SOS Gyermekfalvak), are present. The development of standards was also assisted by the **Family, Child, Youth Association, a prominently public benefit organisation**. Standards were compared to legislation in force and professional rules of procedure in 2008, within the framework of a nation-wide professional day. The guarantees contained in the standards - just-in-need interference in the life of the family by the authorities, active involvement of parent and child in the process of removal from the family or during the time of surrogate care, and the basic principle of family reunification - have also been adopted in Hungarian legislation, and they also appear in the so-called For Our Children's protection data sheet system monitoring the destiny of the child, from placement to the whole duration of child protection care.

In 2010, in conjunction with the most prominent NGOs engaged in the enforcement of child rights in Hungary - with regard to UN Resolution 64/134 announcing the International Youth Year as of August 2010, the **Hungarian UN Model Student Association** selected 4 young people and 2 children in open competition, who became the representatives and advocates of their respective age groups at various UN and other international fora.

**Student unions** operate in almost every school, and **national student parliaments** are held on a three-annual basis with the participation of the representatives of student parliaments operating in localities. Moreover, the Minister responsible for education endeavours to learn the opinion of children and students in the process of law-making. To that end, the Minister operates a **National Council for Student Rights** that takes part in the preparation of decisions related to student rights. The National Council for Student Rights may express its opinion, put up proposals and give opinions on any issue affecting student rights.

#### Point 22

Pursuant to Act IV of 1959 on the **Civil Code**, Section 12, all persons under the age of 18 are minors, unless they are married. Minors under the age of 14 are not legally capable, and minors between the age of 14 and 18 years have diminished legal capacity. At present, the age limit for marriage is defined in Section 10 of the Family Act, according to which only men and women of adult age may marry. The Act has set forth a uniform age limit above which both man and woman may marry without special authorisation. Minors with diminished legal capacity may marry only above 16, with the preliminary approval of the guardianship authorities. The preliminary approval of the guardianship authorities may only be granted upon ascertaining that entering into marriage is in the best interest of the minor concerned who had applied for approval out of his/her own free will and not under influence. To that end the guardianship office requires a medical certificate on the intellectual maturity of the minor, a revenue certificate on the means of subsistence for the minor and their unborn child, and the minor has to attend counselling provided

by the Family Welfare Service. To grant their approval, the guardianship authorities shall hear the young couple wishing to marry and their legal representatives.

Marriage does not automatically entail coming of age if a court has annulled the marriage on the grounds of legal incapacity or lack of preliminary approval by the guardianship authorities. The new Civil Code does not intend to introduce any changes concerning the age limit for marriage.

Criminal law in force in Hungary - Act IV of 1978 on the **Criminal Code** (hereinafter: Criminal Code.) and Act XIX of 1998 on Criminal Proceedings (hereinafter: Criminal Proceedings Act.) considers a child any person younger than 14 years of age, and minors those between 14 and 18 years. Childhood excludes punishability, and minors are subject to more lenient rules than adults in criminal proceedings, rulings and enforcement of punishment.

Under the Criminal Code, a person who has come of age on the grounds of marriage shall continue to be deemed a minor until turning 18 years of age. As for the injured party, under criminal law any person younger than 12 years is deemed incapable of defence, therefore crimes committed against such a person shall be deemed more serious.

#### Point 23 a

Anti-discrimination is enshrined in the **Fundamental Law** of Hungary, its Article XV declares that every person shall be equal before the law, and discrimination is banned on the grounds of race, colour, gender, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever. The State strives to guarantee efficient protection for the rights of victims of discrimination and to remedy any wrongs they have suffered by introducing special legislation and other measures. That is the purpose of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities, entered into force on 27 January 2004. In order to enforce the Act, on 1 February 2005 an **Equal Opportunities Authority** was established, that has represented those suffering discrimination of any kind in a number of cases promoting the application of law.

The Act lists all the features of people it intends to protect, should they suffer any wrongs on the grounds of any one of such features. Protected features include - among others - gender, sexual orientation, disability and nationality. Furthermore, specific areas are listed where equal opportunities shall be applied: employment, social security, health care, housing, education, training, and the distribution and use of goods and services.

Pursuant to Section 31, Paragraphs (1) and (2) of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities, in force as of 22 December 2011, local governments shall adopt local equal opportunities programmes every five years, including a status report on disadvantaged social groups - with special regard to women, people living in deep poverty, persons with disabilities, children and the elderly - analysing their educational, housing, employment, health and social conditions. On the basis of status reports, action plans shall set measures to be taken for the complex handling of issues found through analyses.

Pursuant to Article XV, Paragraph 5 of the Fundamental Law, children shall be protected with special measures. **Hungary's Child Protection Act** (Sections 3 to 9) is in full conformity with those requirements, emphasising the need to comply with equal opportunity requirements in child protection. Every child has the right to receive assistance to be brought up in his/her own family, for the development of his/her personality, the elimination of situations endangering his/her development, and for his/her social integration. The prohibition of negative discrimination is reinforced by the Act when stating that every child shall be entitled to protection against detrimental effects such as incitement to hatred. All negative discrimination is prohibited in the course of the surrogate protection of the child as well. At the same time, under the Act the child's freedom of conscience and religion shall be respected, and his/her national, ethnic and cultural affiliation shall be born in mind.

### Point 23 b

Children's interests are put above everything else in the Articles of the Fundamental Law concerning children, and the paramount interests of the child are also declared in Section 2 (1) of the Child Protection Act. Legislation in force takes into account the need to respect the rights of the child under substantive and procedural law. The protection of children's rights and putting them above everything else is manifest in a number of specific provisions of the Family Act: in the field of child support, use of the home by the spouses, child custody of the parents, adoption and guardianship.

### Point 23 c

Pursuant to Article II of the Fundamental Law, human life shall be inviolable, and foetal life shall be subject to protection from the moment of conception. Pursuant to its Article XVI, every child shall have the right to the protection and care necessary for their proper physical, intellectual and moral development. The enforcement of declared law in conformity with the Family Protection Act is guaranteed by the specific provisions of the Child Protection Act and of the Family Act, and through the benefits provided under the family support system.

### Point 23 d

Pursuant to the Family Act, in the course of guardianship or court proceedings related to child custody, in justified cases or when requested by the child itself, the child shall be heard, directly or through a psychologist. Legal provisions applicable to children make a distinction between children under 14 years and to those above 14. Under the age of 14 years, the Family Act has not defined an age above which the child shall be heard at any rate. That shall depend on the type of the case and on the maturity of the child concerned: the hearing of a child capable of making a sound judgement shall be ensured in the course of proceedings. However, under Section 74 of the Family Act, if the child is older than 14 years of age, any decision related to his/her custody can only be made with his/her agreement, except if the custody selected by the child would endanger his/her development.

Section 8 (1) of the Child Protection Act explicitly establishes the right of children to freely express their opinion regarding issues affecting them. Respect for the opinion of the child is regulated by the Act in several instances.

In order to respect the opinion of the child, his/her views shall be sought in child protection proceedings; in proceedings for taking a child into custody, the statement of the child shall be recorded in the minutes, and the declaration of the minor shall be sought before court in child custody proceedings. The representatives of children's rights assist the child in learning and enforcing his/her rights, and also in learning and fulfilling his/her obligations. The parent of a child shall inform the child of issues affecting him/her, take into account the child's opinion, and take action in order to enforce the child's rights. The child welfare service shall hear the complaints of a child and take action to remedy the situation.

Under the implementation decree of the Child Protection Act, defining procedural rules (149/1997, (IX.10.) Government Decree), Section 11, Paragraph (2), "in matters affecting him/her the child shall be heard by the guardianship authority directly or in another way, such as, in particular, through the child welfare service or an expert body or person. In the interest of the child, guardianship authorities can also conduct a hearing in the absence of the child's legal representative or another interested party." It may lead to the establishment of lack of grounds for a decision in guardianship proceedings if the guardianship office has failed to hear the minor in preparing the case or failed to record the minor's statement in minutes.

Pursuant to Section 71 (1) of the Family Act, in addition to official proceedings, parents must ensure that children capable of making a sound judgement be informed and can express their opinion when decisions affecting them are prepared, in a way suited to their maturity degree. Compared to legislation in force, it is a new element that the draft Family Law Book proposed for

the new Civil Code provides for joint decision-making with parents in certain matters, where the opinion of the child shall be taken into account with appropriate weight.

#### Point 24

Bearing in mind *Closing Observations No. 19 to 20 of the Committee*, Hungary has taken the following actions during the reporting period in order to put an end to discrimination and prevent children from getting into disadvantaged situations.

Concerning the National Strategy called "**Making Things Better for our Children**", since the year 2006, Hungary has gradually rolled out the **Sure Start** pilot programme to prevent child poverty and its consequences, break the deprivation cycle and develop inter-branch and civil cooperation built on local needs. The programme is targeting disadvantaged children aged 0 to 6 years. It involves assisting local initiatives aimed at harmonising services offered to children and to their parents, and providing better access to family support benefits, early development of children's skills, to healthcare, social and educational services. In 2008 Hungary launched SROP 5.2.1, a key EU project with the goal to provide a central methodology base to help improve the quality and accessibility of services aimed at children and families, and to enhance the chances of integration for disadvantaged children. One of the key targets of the project is to develop inter-branch cooperation in order to harmonise similar actions and developments in the field of health care and education. In connection to that, one of the main objectives of the National Child Aid Programme, launched in 2006 to eliminate child poverty was to develop complex services aimed at early intervention, with inter-branch cooperation.

In June 2008, the Child Protection Act introduced **kindergarten attendance benefit**. The purpose of the disbursement of this support is to give an incentive for early kindergarten attendance of cumulatively disadvantaged children in order to facilitate their success at school and social integration later on. Pursuant to Section 121, Paragraph (1) of Act LXXIX of 1993 on Public Education currently in force, cumulatively disadvantaged children are those whose entitlement to regular child protection allowance has been established on the basis of their social background, and whose parent exercising statutory control over them has only finished primary school at best, according to his/her voluntary statement. The same definition is used by the the Public Education Act that shall enter into force as of 1 September 2012, but it will be defined in the Child Protection Act, on which legislation work has already started. In kindergarten, 11% of children are multiply disadvantaged (37 thousand persons), as well as 13.7% of students at primary school (106 thousand persons) and 4% in secondary education (23 thousand persons).

Under the Child Protection Act, a child shall be entitled to regular child protection benefit if the per capita income of the family taking care of the child does not exceed 130% (HUF 37.050), or, in special cases, 140% (HUF 39.900) of the current minimum amount of old-age pension. Entitlement is established for the duration of one year, to be renewed for each academic year. From the point of view of eliminating child poverty and reproduction of poverty between generations, in addition to cash support twice a year, the importance of this benefit lies in the fact that the eligible child is entitled to free catering (three meals a day) and other allowances, such as textbooks and tuition support. The number of children receiving regular child protection benefit is 550 thousand. (To be elaborated in more detail under Point 35 b).

In order to prevent negative discrimination and shape public opinion – *in harmony with the findings of Concluding Observations 50 and 62 to 63 of the Committee* - **the Government has concluded a framework agreement with the National Roma Self-government (ÖRO)**, where they have formulated, and support as a joint target to be reached by the year 2015, the implementation of a comprehensive **education reform programme** that will enable 20 000 young Roma to learn a marketable trade in one of the 50 vocational schools involved in helping them catch up. Furthermore, they will support 10 000 young Roma to receive education providing a secondary school leaving (“maturity exam”) certificate and assist the preparation of 5000 young

Roma to attend higher education. Furthermore, the parties will set up a protection and development system for babies and small children, or further develop the existing system, contributing in merit to the successful school integration of children living in disadvantaged localities. Within that framework, the Government supports kindergarten services to be provided in every locality and the possibility to organise the beginners' year of school even for a very small number of students. The Government will launch new Roma scholarship programmes. ÖRO may submit a proposal to the Government on procedures for the use of budgetary resources, the Labour Market Fund and EU funds.

To facilitate action based on the social partnership to promote the efficient inclusion of the Roma population, related actions and proposals, the Government set up a Roma Coordination Board consisting of 27 members, including 6 members who represent Roma communities.

The possibility of establishing so-called "correction classes" for children with learning difficulties has been discontinued. **A student may not be segregated due to social inclusion, learning or behavioural problems.** On the basis of a 2004 sociological research it can be established that more than half of the schools covered by the survey used to contain classes with a different curriculum, and approximately half of those have since been eliminated. Most of the eliminations occurred in 2007 (30%). It is a significant result that elimination mostly took place in schools with a Roma majority. The process has been monitored by the Commissioner for Fundamental Rights, the Equal Opportunities Authority, the Commissioner for Education Rights and a number of civil society organisations.

The Government supports the reduction of Roma children's school drop-out rates through the introduction of state-of-the-art best practices. The **School Net Programme** is intended to support innovative model school programmes assisting cumulatively disadvantaged children to catch up. These programmes have been set up at schools where the rate of cumulatively disadvantaged strata is overrepresented. Their purpose is to translate into practice the methods developing children's basic skills and communication skills, and offer personal development extracurricular activities. During implementation, it is mandatory to involve the parents and organise family programmes and community events.

Equal opportunities in education for Roma children are guaranteed by the prohibition of negative discrimination laid down in the Public Education Act, which is identical to the definition contained in the UNESCO convention. The Public Education Act has introduced the notions of nullity and invalidity. According to that definition, decisions which have been made within the sphere of institutional authority or under the operator's direction and **violate the prohibition of negative discrimination or they are contrary to the children's interest, which is put above everything else, shall be null and void.** Anyone may refer to the invalidity of a decision declared null and void without time limit. Furthermore, the Public Education Act makes it mandatory for those involved in the organisation, control and operation of public education and in the performance of the tasks of public education to meet the requirements of equal treatment when taking measures and making decisions about children / students.

*Bearing in mind Concluding Observations No. 50 to 51 of the Committee*, primary school admissions districts have been regulated so as to prevent or **eliminate school segregation.** One of the key requirements of equal opportunities for students is that schools performing mandatory admission tasks shall not segregate students on the grounds of their origins or social status. Therefore, when setting the admissions district boundaries for primary schools performing mandatory admission tasks, the socio-economic status of families living within the school's environment shall be taken into account.

School-age children whose permanent address or, in default of that, place of residence is situated in the district of the primary school must be admitted or taken over by that primary school (hereinafter called primary school ensuring compulsory admission). If there are more primary schools operating in the village or town, the ratio of multi-disadvantaged students calculated for each admissions district may exceed the ratio of multi-disadvantaged students calculated for the whole of the town or village by fifteen per cent at most. A primary school whose district would

exceed the above ratio may not be designated as a primary school ensuring compulsory admission.

*Concerning the findings of Point 20.e) of the Concluding Observations of the Committee*, the Government has taken steps to reduce the number of cases when somebody is declared a private student without reasonable justification. From the year 2009, it is provided in legislation that in the event a student - at his/her parent's initiative - has opted for the completion of his/her compulsory schooling as a private student, within five days following such a notification the head teacher of the school shall procure an opinion from the child welfare service responsible for the area where the student resides, to decide whether or not such a solution would be disadvantageous for the student.

### Point 25

In Hungary, the year 2012 is the year of child-friendly justice, when *the findings of Concluding Observations 22 to 25 of the Committee* receive outstanding attention. The first step of the thematic year has been the amendment or supplementation of criminal law and civil law, substantive and procedural legislation. The bill of law proposing the amendment of Act III of 1952 on Civil Proceedings will modify the conditions for ordering in camera hearings, as well as jurisdiction rules concerning some family matters brought before court. The possibility of ordering in camera hearings will be extended: in order to protect a minor, the public may be banished from the whole duration of the hearing. A change in jurisdiction rules will entail that in some family lawsuits - such as lawsuits instituted for the establishment of paternity and the termination of parental supervision - either-or jurisdiction will be introduced. Since such lawsuits may also be initiated by the child himself/herself, or with his/her best interests in mind, such lawsuits may also be brought before the court with jurisdiction over the place of residence of the minor (the general rule being the place of residence of the defendant). Since in such lawsuits the child is usually heard before court in person, such regulation may allow the competent court to conduct the hearing itself, rather than the court addressed within the framework of legal aid. Namely, the experience of family law judges has demonstrated that a judge is **better able to make a reasoned decision when ruling on the basis of personal hearing** than merely on the basis of minutes recorded by another court.

**Even at present, civil proceedings provide the possibility for the competent court (before which action is brought) to conduct the hearing of a minor at the minor's place of residence, home or familiar environment.**

Until now, the legislation on proceedings did not include explicit provisions for hearing a minor party to proceedings or a minor witness. In order to remedy this situation, the legal provisions for court summons will be supplemented with an information supply obligation concerning children. The **summons shall also include special information** describing what is to be expected of the child in the course of the proceedings, what will happen in court, who will be there and what to prepare for, in a manner easy to understand, taking into account the child's age and maturity.

In civil proceedings, **hearing as a witness a minor under 14 years is provided as an exception**, thus ensuring that a child shall only be involved in court proceedings as a last resort, if evidence expected from his/her testimony may not be substituted by other means, such as a psychologist's expert opinion from which the best interests of the child can be clearly established.

Concerning police proceedings, instruction No. 32/2007 (OT26.) on handling violence between relatives and the implementation of policing tasks related to the protection of minors, issued by the National Police Headquarters (ORFK) states that the police inspector in charge shall provide appropriate treatment and counselling to **victims of household violence**, respecting the human dignity of the victim and striving to create a supportive atmosphere. If requested by the injured party or his/her legal representative, the injured party shall be heard by a female police officer, and the testimony of a child shall be heard with the assistance of a psychologist, or recorded under special circumstances, **in a so-called child-hearing room**. Until 1 January 2014, in the area of each county and metropolitan police headquarters at least one child-hearing room shall be set up, providing a child-friendly environment suitable for making video and sound recordings. The purpose is that by creating a suitable atmosphere and involving an expert, the statement of the



child shall be put first in the proceedings, at the same time avoiding the psychological burden of multiple hearings. At present, there are only four places in Hungary offering that possibility.

In the event of **children living in child protection care**, the most important issues where the opinion of the child shall be taken into consideration include: the very fact of taking into placement, identifying the place of custody, selecting a school, and facilitating contact with the biological family of the child. In such matters the child shall be heard by the guardianship office in the course of placement proceedings, on the occasion of annual reviews of placement, and any time in case of need. The child is assisted in the enforcement of this right by his/her guardian as the legal representative of the child and by a representative of children's rights. Notwithstanding, in the experience of representatives of children's rights, unfortunately, the right to information, the right to be heard and the right to respect for their opinion are the most often violated rights of children living in professional care. These rights are violated for the most part in the course of proceedings for taking into placement, when a child is not given proper explanation, in a way that is appropriate for their age and maturity, in the procedure and the consequences of the official decision. Infringement on such rights may be prevented with a representative of children's rights attending the placement conference to inform the child and warn the experts of the rights of the child.

#### Point 26 a

Hungarian law does not allow capital punishment and there is no possibility to sentence to life imprisonment a person under the age of 20 years.

#### Point 26 b

In Hungary, the keeping of death registers is subject to the same rules, regardless whether the deceased are of child or adult age. In all cases, the cause of death shall be ascertained by a doctor who takes responsibility for the veracity of the contents of the death certificate by issuing it.

#### Point 26 c

Under Act LXXIX of 1992 on the Protection of the Foetus, the State supports activities and organisations serving the protection of the foetus, especially those that also provide financial support to expectant mothers in need. **Maternity care free of charge** is the right of any Hungarian citizen residing in Hungary, and such care involves the information of expectant women on the lifestyle required for the healthy development of the foetus, on healthy eating and the importance of preventing detrimental effects on the foetus (especially from smoking and drinking alcohol); screening tests are performed to check the healthy development of the foetus and ensure the expectant woman's health protection; assistance is provided to the expectant woman to prepare for childbirth, breastfeeding and caring for infants.

In the prevention of infanticide, **civil society organisations facilitating adoption** play an outstanding role, with the primary purpose of providing support to pregnant women (parents) in a social crisis situation to enable them to accept and bring up their child. A child is adopted only in the event of a parent's inability to accept the unborn child in spite of assistance provided. In 2010, the rules of operation of such civil society organisations were included under the Child Protection Act. By defining jurisdiction rules, the Act further assists parents in making the best choice for their unborn child. Namely, in the event of open adoption, the guardianship office competent for the place of birth of the child has jurisdiction to conduct proceedings, so as to make sure, if the mother so wishes, that she may keep her pregnancy and the adoption of the child in secret from her broader environment. Namely, social stigmatisation unfortunately still triggers the killing of newly born children in many cases.

**Child saver incubators** placed outside health care institutions are also in the service of the right to life of newborn infants, assisting children to be placed into the care of an adoptive family at the age of just a few days. The first such incubator was set up in 1996, at present, there are 26

throughout Hungary. Pursuant to an amendment to the Family Act in force as of 2006, putting a child into an incubator is deemed as consent granted to secret adoption. In that case criminal proceedings are not instigated against the parent. (Even in such a case, a parent has the possibility to report within 6 weeks in order to obtain the child, final authorisation of adoption may ensue only after the expiry of that deadline.)

In order to prevent **child abuse** - including the abuse of infants and infanticide - a variety of programmes and trainings are organised for both experts and lay people. In 2011, the background institute of health care administration responsible for expertise and professional counselling, the National Institute of Child Health (OGYEI) developed the first summary website in Hungarian, available at [www.gyermekbantalmazas.hu](http://www.gyermekbantalmazas.hu). In 2004 the Institute published a **methodology letter** entitled „Prevention, detection and treatment of child abuse and neglect” for doctors and district nurses, available for download from the website of the Institute ([www.ogyei.hu](http://www.ogyei.hu))

In the year 2009, the Institute launched a National Infant and Child Health Programme called „**Közös kincsünk a gyermek**” (“**A Child is Our Common Treasure**”).

In 2009 and 2010, another programme was launched called „**Never Shake Your Baby**”, including a DVD and a short animation movie. In Hungary, the National Institute of Child Health has been the first to process this topic and build a programme on it that can be equally useful for all professions dealing with child protection, and it also carries an important message for the civil population. The programme has an outstanding preventive character, since using the DVD and the flyer, an education programme was launched in April 2010 with the purpose to educate as many experts dealing with children and young families as possible on the "shaken child syndrome", its symptoms, consequences and the importance of prevention. The programme has been accredited and reached approximately 3000 experts so far (day nursery workers, policemen, medical students, traumatologists, district nurses, paediatricians and paediatric nurses), and it continued in 2011. The flyers are publicly available on the internet. The DVD reaches young parents through the experts, but it is also recommended for use in baby and mother clubs, doctors' waiting rooms and individual use.

In April 2012, an invitation for applications was launched under the **SROP 6.1.4 Early Childhood (0 to 7 years) key project** in the framework amount of 2.5 billion HUF. The project targets the support of the biological, psychological and social development of children within the age group of 0 to 7 years, through the development of basic child healthcare. The scheme focuses on basic healthcare as an immediate target group (the district nurse service, paediatrician GPs, and GPs who also provide healthcare for children), and on the parents of children.

Under the provisions of the Child Protection Act, the prevention, detection and elimination of the endangerment and social vulnerability of children shall be the responsibility of the child welfare service organised at the local level within basic child welfare care.

Moreover, the assertion of the right of the child to development is ensured through financial and in-kind benefits allocated through the family support system. The family support system will be *explained in more detail under Section 31, Point b.*

#### Point 28 a

Under effective birth register regulations, it is mandatory to enter into the birth register any child born in Hungary, regardless of the nationality and title of residence of their parents.

The provisions of Act LV of 1993 on Hungarian nationality ensure the **prevention of statelessness** in the case of children.

The child of a Hungarian national will automatically acquire Hungarian nationality under the law, regardless of the place of birth.

A child found in Hungary born of unknown parents shall be regarded as a Hungarian national.

Until evidence is presented to the contrary, a child born in Hungary of stateless parents living in Hungary shall be regarded as a Hungarian national.

Taking into consideration the European Convention on Nationality, Hungarian law has introduced the possibility for those children who failed to acquire their parents' nationality at birth and are therefore stateless, to acquire Hungarian nationality on the basis of subsequent marriage or a paternal recognition statement of full effect retroactively, as of their date of birth.

In the event of acquiring nationality through naturalisation, statutory provisions are more lenient for minors: the duration of the residence period may be reduced if they apply for nationality together with their parent.

There is an allowance to acquire Hungarian nationality following 5 years of residence in the country by a person who was born or settled in Hungary. (Usually stateless persons)

Ultimately, the prerequisite for the resignation of Hungarian nationality is for the applicant to possess, or be given the prospect of, the nationality of another state if he/she resigns Hungarian nationality. Safeguard rule: should the person concerned fail to acquire the nationality of another state, he/she may request the restitution of Hungarian nationality within one year.

#### Point 28 b

Section 7, Paragraph (1) of the Family Act declares the requirement paramount in all child protection and guardianship proceedings, that a child may be separated from his or her parents or other relatives exclusively in his or her own interest, in the instances and in the manner specified by law. The unlawful changing of the family status of a child is punishable under the Hungarian Criminal Code, Sections 193 and 194, and in addition to acts of crime, if the legal facts are realised pursuant to Section 195, endangerment of a minor shall also be established.

#### Point 28 c

Under the Public Education Act, **students have the right** to express an opinion, observing human dignity, on all issues, including the work of their teachers and the operation of their school or student hostel. Moreover, they have the right to receive information about issues concerning their person and studies, and they can make suggestions in this sphere; they can also address questions to the management and educators of the school or student hostel, to the school board or student hostel board, and receive a definite response within fifteen days after the request. Furthermore, they have the right to participate in decision making having a bearing on their interests, and in the governance of the education institution, either personally or by means of representatives. The student may file for an action in case his/her rights have been violated and have recourse to publicity. Additionally, students may appeal to the student union for the representation of their interests and they can request any wrongs they have suffered to be redressed.

In compliance with the provisions stated in the Child Protection Act, the child has the right to **express his or her views about the education, instruction and care provided to him or her, and to be heard and informed in all matters concerning his or her person.** Children have the right to lodge a complaint with various fora identified for the purpose regarding issues affecting them, and, in case their basic rights are violated, to initiate action at children's self-government, interest representation fora, representatives of children's rights, guardianship office and other authorities, or the Commissioner for Fundamental Rights.

Children living in child protection system have **access to useful and necessary information in function of their age**; they are not isolated by children's homes or apartment-homes. They take part at the same school programmes as children living in a family. However, in many places in the countryside children do not have access to the internet, which makes it more difficult for them to obtain information and it would be indispensable for their studies as well.

Special attention is required in order to ensure **the freedom of expression of children with disabilities.** Persons with moderate or serious mental disabilities are often impaired in their speech as well. Experts who deal with them take all the necessary actions so that children with disabilities may exercise their rights to freedom of expression and access information in the forms of communication they can use.

#### Points 28. d, e and f

Article VII of the Fundamental Law provides for the right to freedom of thought, conscience and religion, Article VII guarantees the right to freedom of association and peaceful assembly, Article VI, Paragraph (1) guarantees the right to the protection of private life and good reputation. Children are also entitled to such rights. Under Section 9, Paragraph (1) of the Family Act, Points d), f) and j), the child has the right to freely choose, express and exercise his or her religious conviction or belief and to participate in religious education, initiate the establishment of a children's self-government to represent his or her interests, and exercise his or her rights respecting the usual objects constituting personal property.

#### Points 28.g. and 29

Under Section 6, Paragraph (6) of the Family Act, a child shall be entitled to have access in the media to programmes appropriate for his or her maturity, promoting the acquisition of knowledge and conveying the values of the Hungarian language and culture, and to protection against detrimental effects such as incitement to hatred, violence or pornography.

With regard to Concluding Observations No. 29 of the *Committee*, we can report that the National Police Headquarters, Telenor Hungary and the National Media and Communications Authority (NMHH) have signed a letter of intent where the parties agreed to take joint action against the propagation of pornographic recordings presenting minors or persons of child age via internet. On 21 February 2012, the National Police Headquarters and the National Media and Communications Authority entered into a cooperation agreement with the purpose of suppressing prohibited and harmful information content endangering the intellectual and moral development of minors – especially those presenting the sexual exploitation of children, racist and violent contents, and those instigating to the distribution and use of drugs – and forwarding them to the police through a dedicated hotline (on-line reporting line) service.

#### Point 28 h

Under the Public Education Act, the personality, human dignity and rights of a child /student shall be respected, and protection has to be provided for them against physical and mental violence. **A student shall not be subjected to corporal punishment.**

Under Section 6, Paragraph (5) of the Family Act, the child shall be entitled to respect of his or her human dignity and to protection against abuse – physical, sexual or psychological violence –, neglect or informational damage. No child shall be subjected to torture, corporeal punishment or any other cruel, inhuman or degrading treatment or punishment. For the purposes of implementing the national strategy for the prevention and efficient management of violence in families {Parliamentary Resolution No. 45/2003, (IV. 16.) OGY} and the national crime prevention strategy {Parliamentary Resolution No. 115/2003, (X. 28.) OGY}, the formerly more lenient regulations have become more stringent. The amendment to the Child Protection Act in force as of 1 January 2005 conveys a set of values according to which prohibition applies not only to cruel, inhuman or degrading corporeal punishment, but **corporal punishment in itself is banned**, that is, the child shall not be subjected or threatened with corporeal or emotional punishment, torture, cruel, inhuman or degrading treatment or punishment. Public shaming is another prohibited means of discipline.

Under the Child Protection Act, Sections 114/A and 114/B, the ordering of educational supervision is regulated as an official action, and it requires a great deal of circumspection as it entails the curtailing of personal freedom, which may occur in the interest of the child concerned or in the interest of other children who are being brought up together with the child. Guardianship proceedings may be instigated ex officio or initiated by the head of the children's home. Within 3 days of initiation, the guardianship office shall procure the expert opinion of the county child protection-expert committee. In the proceedings the child is represented by the representative of

children's rights designated by the guardianship office, including representation in court proceedings. The guardianship office orders the educational supervision of a child if - due to his or her health or psychological condition - a child educated in a children's home displays a conduct directly endangering his/her own life or health or that of others, and such a threat may only be eliminated by immediately ordering him/her to receive comprehensive care under supervision, in contained circumstances. The guardianship office makes a decision on ordering educational supervision against which legal remedy may be sought. When ordering educational supervision, the guardianship office sets a date to review the measure. The termination of educational supervision may be requested by the child, his/her legal guardian, a representative of children's rights or the head of the specialised children's home, or the guardianship office may proceed *ex officio*. The application of educational supervision is covered by an official procedure, which is to safeguard the assertion of rights defined in Article 37 (a) and Article 28, Section 2 of the Convention.

Violent conduct within the household affecting a minor is punishable under the Hungarian Criminal Code. According to the statutory definition of facts, a person responsible for the education, supervision or care of a minor, who severely violates his/her obligation arising from such a responsibility and thereby **endangers** the physical, intellectual or moral development of a **minor** commits a criminal offence (Criminal Code. Section 195). Abuse of a minor is deemed a severe violation of obligation. Further statutory facts, such as injury resulting from abuse may lead to the establishment of cumulation of crimes.

In addition to the facts defined under the Criminal Code, it is also laid down in Act CLIV of 1997 on Health Care (hereinafter Health Care Act) that a patient shall only undergo interventions required for his/her treatment. While receiving care, a patient may only be restricted in the exercise of his/her rights until such a time, to such an extent and in such a manner - defined by law - as justified by his/her health condition. The personal freedom of a patient may only be restricted by physical, chemical, biological or psychical methods or procedures in case of urgent need, or in order to protect the life, physical integrity or health of the patient or other people. In the course of health care treatment it is prohibited to apply any restrictive measures of torturous, inhuman, degrading or punishing character. In the course of treatment, with regard to his/her sense of decency, the patient shall be stripped of his/her clothing only for the time needed and to the extent professionally justified. (*See also Point 26. a*)

#### Point 28 i

Act CXXXV of 2005 on assisting victims of crime and mitigation of damage by the state entered into force on 1 January 2006. The purpose of the legislator was to express that the State takes responsibility for victims of crime and through victim support services it facilitates the - at least partial - restitution of the state of affairs before the crime was committed. The scope of the Act covers both adult victims and minors, they are entitled to equal rights in the proceedings of the victim support service. If a child becomes the victim of crime, he/she shall have the statutory right to use **victim support services and mitigation of damages by the State**. In terms of services offered to victims, the State facilitates the assertion of their rights, and provides immediate financial aid and legal assistance. The type of service to be provided in any given case is determined by the type of crime, the effect it has on the victim and the personal circumstances of the victim. Such services may be used by victims of any crime, while the grounds for receiving mitigation of damages by the State are justified by intentional violent crimes committed against a person resulting in severe damages to physical integrity and health.

Within the framework of the SROP 5.6.2. project, since the year 2011, psychological assistance has been available to victims in three counties free of charge. Between April and December 2011, such services were received by 103 victims, including children. (*See also Point 31. j*)

### 31. a.

Act CCXI of 2011 *on the protection of families*, entered into force on 1 January 2012, sets forth that a family is an autonomous community which rests on moral grounds, furthermore, family is the most important national resource of Hungary, growing up in a family is safer than any other possibility, moreover, there is no well-functioning society without harmoniously functioning families. In harmony with that, the contents of the parental right to supervision are still regulated by the Family Act. Provisions contained in Sections 6 to 12 of the Child Protection Act fill in the framework laid down by the Family Act, defining the obligations of the parent (which correspond, on the other hand, to the rights of the child against the parent). The parent shall have the obligation to provide care and guidance to the child within the family and to assure the conditions necessary for the physical, intellectual, emotional and moral development of the child - in particular housing, food and clothing - as well as the child's access to education and to health care; cooperate with the child and respect his or her human dignity; assist and advise the child in the assertion of his or her rights.

### Point 31 b

Providing care and guidance to the child is a subset of rights within the parental right to supervision. This right is at the same time the most fundamental and essential obligation of a parent towards his/her child. It includes catering to the basic natural needs of the child, providing care and devotion, schooling and education. Under the Family Act, care and education of the child shall be the **joint obligation of cohabiting parents**. In the event that parental supervision is exercised by one of the parents alone, usually that parent would cater to the immediate physical needs of the child, while the other parent would usually perform his/her duty of care and education by paying child support, keeping in contact with the child and exercise his/her right and obligation of decision on all material issues affecting the future of the child. Material issues affecting the future of the child include the choice or change of the name of the child, the designation of the child's place of residence, and the selection of his or her school and career.

In order to enhance the social security of families and ease the financial burden of bringing up children, the **family supporting system** – in harmony with the recommendations made in *Closing Observations No. 46 of the Committee* - provides to families with children a broad scope of one-time payments, regularly disbursed benefits, various benefits on the basis of civic rights or insurance and allowances tied to income assessment. In this scope, family allowance, child home care allowance, child-rearing support and birth grant can be considered as universal provisions. Regular child protection benefit, extraordinary child protection benefit and kindergarten attendance benefit depend on the financial situation of the family. Pregnancy and confinement benefit and child-care fee are tied to the condition that the parent should have a legal relationship of determined duration as an insured.

**Family allowance** is a financial contribution to the costs of education and schooling of the child, in two forms: one is the **child-raising benefit** due from the birth of the child until they become of school age, and afterwards there is **schooling benefit**. Schooling benefit is due until the end of compulsory schooling, or, if the child continues to attend a public education institution, then, at most, until the end of the academic year when turning 20 years of age, or 23 years of age in the case of a person with special educational needs but not receiving disability allowance. The amount of family allowance depends on the number of children, the type of family (single parent or two-parent family) and on the health condition of the child. At present, the amount varies between **HUF 14,800** and **HUF 23,300/month/child**.

As of 30 August 2010, the disbursement of schooling benefit is **tied to the fulfilment of compulsory education and to regular school attendance**. Missing from 10 curricular activities shall be followed by an official guardianship warning, and failure to attend up to 50 curricular units shall entail the suspension of schooling benefit. Schooling benefit thus suspended will be disbursed to the family allowance bank account of the local government, and for the parent to start

receiving payments again the child must not miss a single curricular unit. Then the accumulated amount of the allowance shall be provided in kind, appropriately allocated over time. To the family of children in dire need, entitled to child protection benefit, the allowance shall be provided in kind even during the suspension period. Regarding the fact that most of the truants belong to the age group over 16 years, statutory rules **changed as of 1 January 2012**. In the case of a student over the age of 16 years, the disbursement of schooling benefit shall be suspended, and it shall not be payable retroactively when the student starts attending school regularly.

Upon childbirth, the woman giving birth (guardian, adoptive parent) shall be entitled to a one-time benefit called **birth grant**. The amount of birth grant is 225 % of the minimum amount of old-age pension (HUF 64 125), or, in the case of twins, 300 % (HUF 85 500) per child.

**Child home care allowance** (GYES) is due until the child turns three years of age, or, in the case of twins, until the end of the year when they turn of compulsory school age and, in the case of a chronically ill or severely disabled child, until they turn 10 years of age. The amount of GYES corresponds to the minimum amount of old-age pension (HUF 28 500). From the point of view of pension calculation, the period of GYES disbursement shall be considered service time. Instead of the parent, this allowance may also be claimed by the grandparent when the child is older than one year of age.

The statutory provisions regulating work performance while receiving GYES changed as of 1 January 2011. After the child turns one year of age, while receiving GYES, **work may be performed 30 hours a week** (earlier provisions allowed full time work with a child older than one year). **Those caring for a chronically ill or severely disabled child may** still engage in gainful employment without time limit when the child is older than one year. There is no limit if the parent performs work exclusively at home.

As of 1 January 2011, instead of two years, childcare allowance (GYES) is once again due **until the child turns three years of age**.

In order to promote the adoption within Hungary of multiply traumatised children older than 3 years of age, it is possible to claim **adoption GYES** as of 1 January 2011. Adoption GYES makes it possible for either of the adoptive parents to use GYES upon adoption of a child for a 6-month period, even if the age of the child would not entail such an entitlement, or it would otherwise be due for a period less than 6 months.

**Child-rearing support** provides financial assistance for the home care of children to families with at least three children, where the youngest child is older than 3 years of age but younger than 8, provided that the parent claiming the allowance is engaged in gainful employment up to six hours a day or less. The period while child-rearing allowance is disbursed shall be considered service time. It amounts to HUF 28,500 per month.

Benefits on the basis of financial situation are provided by the State in line with the Child Protection Act.

**Regular child protection benefit** creates entitlement to financial support twice a year (in 2012, the amount of that was HUF 5800/child), moreover, to certain benefits in kind (e.g. normative child meal allowance, textbooks free of charge). **Supplementary child protection benefit** is due to a person taking care of the child as a guardian who receives pension, a pension-type benefit or old-age allowance, while **extraordinary child protection benefit** assists families struggling with temporary livelihood problems or getting into an extraordinary situation endangering their survival. The purpose of such benefits is to prevent the endangerment of children due to financial reasons and prevent their removal from the family. The purpose of **kindergarten attendance benefit** is to provide an incentive to parents to enrol their children into kindergarten at as early an age as possible. Kindergarten attendance benefit is first disbursed in December or June following enrolment, and twice a year afterwards. The amount of the benefit is twenty thousand HUF for the first time, and ten thousand HUF per occasion and per child afterwards.

Those eligible shall be entitled to reduce their tax base using the **family tax allowance** introduced as of 1 January 2011. In the case of one or two dependants, its amount is HUF 62 500 per dependent and per months of entitlement, or HUF 206 250 if there are three or more dependants, that is, in the case of families with one or two children it means HUF10 000 per child net, while for those with three or more children the net amount is HUF 33 000 per child. Former provisions did not allow families with one or two children to use tax allowance, while those with three children used to be entitled to a monthly tax allowance of HUF 4000 per child.

Daytime care for the pre-school age children of working parents is provided by the **day-care** institutions that are part of the child welfare system under the Child Protection Act: day nursery, out-of-school care, child minding in family or at home and alternative daytime care services, moreover, kindergartens falling under the public education system.

On the basis of an amendment of 1 January 2006, in addition to the priority of providing basic care (taking care of children aged 0 to 3 years), they may organise other services facilitating child rearing: temporary child supervision, special counselling, playgroups, renting tools and toys and home care.

The amendment on the contribution fee, in force as of 1 January 2012 makes it possible to improve the financing of the institutions using care fees collected from the parents of children who are not socially vulnerable. Local governments and other operators of institutions are free to decide whether or not to introduce a contribution fee payable for care. It is important to note that socially vulnerable families shall continue to be exempt from paying a contribution fee for the care of their children. That is, children receiving regular child protection benefit, the children of families with three or more children, chronically ill or severely disabled children, moreover, the parents or grandparents of children living in child protection system shall have statutory exemption from paying a contribution fee.

Under the Child Protection Act, for day nursery admissions priority shall be given to children entitled to regular child protection benefit whose parent or other legal representative who takes care of them certifies that he/she is employed or has another legal relationship aimed at work performance.

Thanks to Regional Operational Programmes, as of 2007 more than HUF 6 billion has been spent on improving child welfare services. During the 2007-2008 planning period, almost HUF 8.7 billion was awarded in support, followed by another HUF 7 billion in the 2009-2010 action planning period. A great deal of those supports has been spent on developing child welfare services. During the 2007-2010 period, invitations for applications have contributed to the development of child welfare services with more than HUF 3.5 billion.

Within the framework of the Regional Operational Programme, between 2007 and 2010 there were 17 invitations for applications, and 160 applications received assistance, the awarded amount totalling HUF 17,252,517,148. **New nursery capacity** to be added between 2007 and 2013 will have created space **for more than 6600 additional children**; moreover, much of the existing capacity will be renovated.

In the year 2011, within the framework of a new invitation for applications - the last one within the planning period - around HUF 8.5 billion of EU funding was announced for nursery development. Applications were invited for the framework amount of HUF 6 billion for the development of social and child welfare services and for the establishment of out-of-school care.

The Government is committed to the quality development of daytime care for small children, thus contributing to meeting the 2002 Barcelona objective. Applications for support for the establishment of out-of-school care were invited by the competent Ministry also in 2009 and 2010. In 2009, the amount of support awarded to 121 applicants was HUF 79,167,842. In 2010, 73 applications were received, and the support amount totalled HUF 46,341,201. Unfortunately, due to lack of funds, it has not been possible to announce similar invitations for applications in 2011 and 2012. Within the framework of the two application programmes mentioned above, **new capacity to receive 1000 more children in out-of-school care** was created throughout Hungary, approximately.



However, in spite of developments, considerable regional differences persist. Although day nursery care for the age group of 0 to 3 years has increased from 10% to 12%, this can still be regarded as low capacity, and it is a problem that day nursery capacities are primarily concentrated in cities. According to preliminary data for 2011, there are 692 day nurseries operating in Hungary, with a total capacity for 35,450 children.

**Kindergarten education** is received by more than 90% of the age group of 3 to 6 years.

#### Point 31 c

One of the linchpins of the Hungarian child protection system is the operation of a child protection signalling system in order to detect and ward off factors endangering children. All those who perform social, health care, public education services or official tasks and may get into touch with the vulnerability of children in the course of their work are members of the child protection system. Such service providers, entities and persons shall have the duty to signal to and cooperate with the child protection system whenever they learn of the endangerment of a child. At local level, the child protection signalling system is operated by the child welfare service.

The year 2005 saw the emergence of child welfare centres as a type of institution - mandatory for all localities with more than 40,000 inhabitants - and they were allocated additional special service elements and tasks by legislation. Such as social work in the streets and housing estates, social work in hospitals, standby emergency service and on-duty standby to facilitate contacts. Moreover, social work at schools as a peculiar field of responsibility is also a key activity in assisting children to be brought up in their family.

One of the key professional development objectives of the past few years has been professional support provided for the operation of the child protection signalling system. As a result of measures, substantial progress has been noted in several areas, including the police, district nurse care, victim support service and public education. They include measures of outstanding importance, such as the District Nurse Professional Inspectorate Guidelines, published in 2010, for the development of local procedures for district nurse responsibilities related to child protection, and a methodology recommendation, completed in 2006, for the provision of child protection services in hospitals. The amendment to the Child Protection Act entered into force as of 2006 also designates victim support and damage mitigation entities as members of the child protection signalling system.

When performing inspections, branch management and professional supervision bodies pay outstanding attention to checking the operation of the child protection signalling system, and, as a result, statutory provisions were introduced as of 2010 to penalise the omission of signalling duty, among others. Under the provisions of the Child Protection Act, any child protection task provider who violates child rights or the duty to inform, or hinders a child, parent, guardian or interest representation entity in the exercise of their rights or prevents them from addressing a representative of children's rights or another authority; moreover, any head of institution who fails to investigate complaints by the deadline, may be imposed a **child protection administration fine**. The amount of the fine may be up to HUF 200 thousand.

A very important element of basic child welfare care is the provision of temporary custody in order to resolve temporary crisis situations. In this field there are three forms of care defined in the Child Protection Act. These are **temporary homes for children**, taking care of children aged 0 to 17 years. **Temporary homes for families**, designated to provide placement for families in the event of a housing crisis or another crisis situation, and placement with a surrogate parent capable of taking care of the child in a way close to family and home, also till the end of a temporary crisis situation, until the elimination of circumstances preventing the parents from taking care of their child.

Under Section 72, Paragraph (1) of the Child Protection Act, in cases necessitating prompt action it is possible to remove a child from the family and apply **placement with temporary effect** by one of the following entities: the notary of a municipality local government, the guardianship

office, police, the Prosecutor's Office, court or the command of a law enforcement institution. Furthermore, as a result of an amendment to the Child Protection Act in force as of 1 May 2011, aimed at settling the situation of unaccompanied minors, the alien policing authority and the authority responsible for refugees are also entitled to make such a decision.

*Constitution Court Decision No. 114/2010 (VI. 30.)* has qualified placement with temporary effect as a decision of merit, on the grounds that it materially restricts a fundamental right of the parent, thus lawmakers were called on to ensure the possibility of appeal. Accordingly, an amendment was made to the related Section {73 (1)} of the Child Protection Act and it entered into force as of 1 January 2011. Previous to that, it had been mandatory for the guardianship office to review temporary placement ex officio.

Removal from the family is effected on the basis of a **complex examination of the child** (psychological, if needed, psychiatric and therapeutic), upon the proposal of county or metropolitan expert committees operating within district professional child protection services. In the event of placement with temporary effect, the examination commences after placement of the child, with the purpose to ascertain if relevant conditions exist, or the child can go back to his/her family.

In the course of child placement, the data sheets of the registration system called "For Protection of Our Children" is used, a system modelled after "Looking after children" and recast as of 1 April 2007. In line with the above, at the placement conference special attention shall be paid to the opinion of the parent and the child and to the needs of the child when removing a child from the family and changing his/her place of care. If the parent disagrees with the proposal concerning the place of care of the child, his/her opinion contesting the proposal shall be registered on the data sheet. On the basis of the findings of the expert committee and the proposal of the placement conference, the guardianship office shall make a decision on ordering the child to be taken into temporary or long-term custody.

Thus, removal of a child from his/her family may only occur **on the basis of a contestable official decision**, furthermore, identifying the place of custody of the child shall also fall within the scope of the guardianship office, on the basis of professional preparations.

For a **child living in child protection system**, an individual care and education plan is identified, where planning contacts with family members, primarily with biological parents, is dedicated particular attention. **Keeping in contact** is not only a right of the parent - which may only be restricted on statutory grounds - but an obligation as well, the omission of which entails serious legal consequences, ultimately leading to declaring the child available for adoption or to the termination of the parent's supervision right. The exercise and forms of contact shall be regulated in a decision by the guardianship office.

In the experience of representatives of children's rights, the right to contact with a parent, siblings and other relatives living far away from the place of care is the second most often violated right of children, because the practical implementation of maintenance of contact often varies from the provisions of the guardianship office.

In order to eliminate such shortcomings - *and bearing in mind the warnings in Concluding Observations No. 32-33 of the Commission* - on 1 January 2011, Section 34 of the Child Protection Act and its implementation decree were amended. The decision on contact with a child placed under child protection care shall be made ex officio by the guardianship office. At the request of a relative entitled to maintain contact, a 1 or 2-day leave shall be agreed with the children's home, other boarding institution or the operator of the network of foster parents, to allow the child to visit his/her parent or family. This shall make contacts and personal encounters between children and relatives more flexible. The guardian of the child shall signal to the guardianship office if a dispute arose during contacts between the relative entitled to maintain contact and the child, or between the relative entitled to contact and the guardian. A professional methodology recommendation warns guardianship offices that it is advisable to designate as place of contact primarily the place of care of the child, even in the case of children placed with foster

parents. Professional child protection institutions have to keep a contact log in order to monitor the maintenance of contact.

Under Section 92 of the Family Act, Paragraph (1), children shall have the right to maintain indirect personal contacts with their **separated parent**. The parent or other person taking care of the child shall be obliged to ensure maintenance of contacts undisturbed. Regarding the fact that there is often a very tense and hard to handle relationship between separated parents, which in many cases poses an obstacle to the child's right to contact, a **child protection mediator procedure** has been introduced using mediation tools. Detailed rules of the procedure are defined in the implementation decree of the Child Protection Act, in force as of 1 July 2005. In order to conduct the procedure, the parties must agree on the person of the mediator, who may only be an expert registered either on the Child Protection Official Experts' List or on the list of experts of the Ministry responsible for justice. In the course of the procedure the mediator shall always hear children above the age of 12, and any child younger than 12 years of age who is capable of making a sound judgement. Trust between the parties and the success of proceedings is reinforced by the confidentiality obligation binding the mediator. If an agreement is reached between the parties on maintenance of contact issues, signed by the mediator, it shall be approved by the guardianship office.

Parallel to that, the Criminal Code has been made more stringent. As of 1 September 2005, pursuant to Section 195, Paragraph (4), a person who hinders the establishment or maintenance of contacts between the minor placed in his/her care and the person entitled to maintain contact on the basis of a court ruling or official decision, and continues to do so even after a fine is imposed in order to enforce contact, commits an offence punishable with imprisonment for up to one year.

Under the Hungarian Family Act children have the right to maintain direct personal contacts with their separated parent, even **if they live in a different country**. Following the accession of Hungary to the European Union, in relation to EU member states, concerning the child's and separated parent's right to contact, **Council Regulation (EC) No 2201/2003** of 27 November 2003 *concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 is applicable*. Upon the accession of Hungary in 2006, the **Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children** (promulgated by Act CXL of 2005) has become part of Hungarian domestic law. All legislation mentioned above provide a wide scope for the assertion of the child's right to maintain contacts with the other parent living abroad, thanks to international conventions and to the assistance of the central authorities of the EU community regulation.

Governing case law has also highlighted that the maintenance of contacts between a child placed with a parent living in Hungary and the other parent living abroad - unless justified by exceptional circumstances in the best interest of the child - may not be restricted to the territory of the country (EBH2007.1610).

#### Point 31 d

Due to the need for legal harmonisation following the accession of Hungary to the European Union, legislation regulating the entrance and residence of foreign nationals has been re-codified, as follows: **Act LXXX of 2007 on asylum; Act I of 2007 on the entrance and residence of persons entitled to freedom of movement and residence; Act II of 2007 on the entrance and residence of third country nationals**.

The fundamental principles of the Act **on asylum** include the principle of family unity. In order to ensure family unity, the family members of an alien recognised as a refugee or a person eligible for subsidiary protection shall also be recognised as refugees or persons eligible for subsidiary

protections. If, in the territory of Hungary, a child is born to an alien recognised as a refugee (a person eligible for subsidiary protection), at his/her request the child shall be recognised as a refugee (a person eligible for subsidiary protection).

Under legislation regulating the residence of **third country nationals**, a child is deemed a family member, and is therefore entitled to join his/her third country national family member holding a residence, immigration, permanent residence, temporary residence, national residence or EC residence permit, or a family member recognised as a refugee or holder of a residence card or permanent residence card, and to that end shall receive a residence permit for family reunification.

In the case of **unaccompanied minors**, the authorities responsible for refugee matters shall take action to seek out the persons responsible for their supervision. That is first of all assisted by the Red Cross Tracing Service. Family tracing goes in both directions: on the one hand, search requests of unaccompanied minors seeking asylum in Hungary, and, on the other, those of asylum seekers in other countries meet at the Red Cross Tracing Service.

#### Point 31 e

Under Section 69/A of the Family Act, parents shall share with the minor whatever means of joint subsistence are available to them, even to the detriment of meeting their own basic needs. In the event of separated parents, the parent taking care of the child shall ensure the maintenance of the child in kind, while the other parent shall primarily ensure it financially, by way of paying child support. If there is no agreement between the parents on child support, it shall be subject to court ruling, thus making child support enforceable through court order.

In order to be able to enforce court orders without delay, parties are entitled to the right of cost noting, which means that regardless of their income and financial situation, the State shall advance them court expenses when they initiate court proceedings.

The Child Protection Act provides the possibility for the **State to pay out child support in advance** (Section 22). This may occur in the case of an enforceable final court decision (also that of a foreign court) when the recovery of the child support fee is temporarily impossible, furthermore, the parent taking care of the child or other legal representative is not able to provide the necessary keep for the child, provided that in the family taking care of the child the average monthly income per person is less than twice the minimum amount of old-age pension.

If conditions are met, advance payment of child support may be established even after the child becomes of adult age, or it may continue to be paid until the child pursues studies qualifying as full time secondary school, up to turning twenty years of age. On the basis of the decision of the guardianship office, the notary of the local government shall provide advance payment of child support from the central budget.

In Recommendation No. **AJB-1666/2011**, the Commissioner for Fundamental Rights established that „provisions under which the advance payment of child support may be suspended upon payment of a single instalment, not in proportion to the total child support fee payable for the period concerned will lead to shortcomings.”

In order to remedy that situation, as of 1 January 2012 the Child Protection Act has been amended to ensure that suspension may only ensue if the person obliged to pay child support fee paid at least the established minimum amount to the person eligible for child support, on at least two consecutive occasions. On the basis of the annual statistical data of the Central Statistical Office of Hungary (KSH) for 2010, in the year 2010 the number of persons receiving advance payment of child support was 11705, including 782 children (6.7%) affected by suspension of disbursement.

The Hungarian authorities efficiently assist in the **recovery** of child support fee **abroad**. In that respect - mainly as a result of Hungary's accession to the EU - a number of changes have occurred in international law since the previous country report.

Cooperation regarding EU member states is facilitated by **Council Regulation (EC) No 4/2009** of 18 December 2008 *on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations*, applicable as of 18 June 2011.

The European Community acceded to the **Hague Protocol on law applicable to maintenance obligations**, adopted on 23 November 2007, so accession is also binding for Hungary.

According to the maintenance regulation, applications submitted by the entitled person concerning a child under 21 years shall be free of charge in all EU member states. This considerable facilitates and accelerates the enforcement of child support claims abroad, which serves the assertion of the best interests of the child.

Official cooperation in maintenance cases between Hungary and the United States of America is facilitated by the **Hungarian-American maintenance reciprocity** concluded in 2007.

The Minister of Public Affairs and Justice of Hungary signed on 6 April 2011 in the Hague, on behalf of the European Union, the **Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance** which shall be applicable upon conclusion by the EU to maintenance matters concerning states outside the EU.

Act LXVII of 2011 on the performance of central official tasks serves the implementation of the Maintenance Regulation and its application in Hungary in cross-border maintenance cases. The aforementioned law shall be applied for the administration by central authorities of applications submitted on the basis of the maintenance regulation and the American maintenance reciprocity. It defines in detail the responsibilities of courts and central authorities concerning applications to and from abroad, thereby clarifying the tasks of those who apply the law.

#### Point 31 f

The Child Protection Act and its implementation decrees define detailed rules on the surrogate protection of children deprived of family on a temporary or permanent basis, which means primarily placement in a family. The Act defines the order of priorities, that the child shall be placed first of all in an adoptive family, or, if the conditions for that are not met, with a foster parent, and, ultimately, in an institution: a children's home or an apartment-home.

On the basis of current legislation, minors shall not be separated from their families on the grounds of poverty alone, while referring to the "best interests" of the child, however, it is an unfortunate fact, that as a consequence of the economic crisis, in recent years there has been an increasing number of placement of children whose parents had become unemployed, in some cases evicted out from their home, which required the authorities to order child protection substituting for parental care. It is noteworthy, however, that the social crisis of families and getting into dire straits poses such impossible challenges to parents which often lead to the physical and emotional neglect and endangerment of children.

**Compared to the population of the same age, the number and ratio of children placed in child protection system** showed a decreasing tendency each year from the end of the 1970s, then the tendency remained unchanged starting from 1977 up to the end of the years 2000: In 1977 the ratio was 1.3%, in 1997, when the Child Protection Act entered into force, it was 0.97%, then decreased to 0.88% a year later, and for nearly 10 years that ratio had remained unchanged. **However, in 2011 that ratio is around 1%.**

**The sum total of minors receiving professional care and those in follow-up care seems to remain around 21.5 thousand**, including in recent years a decreasing tendency in the ratio of follow-up, and **the number of minors has been on the increase since the year 2007**. In 2011, a total of 18,287 minors were living in the professional care system.

The change of tendencies within professional child protection system is illustrated by the fact that while in the 1970s only 28% of children in care lived with foster parents, in 1997 their ratio was already 40%. By 2011, the ratio of children in professional child protection system placed with foster parents went up to 60 %. **According to 31 December 2011 data, 11,045 children were living in a foster family**, 6,927 children in children's homes, and 315 minors in other placement facilities.

On 31 December 2010, the number of foster parents was 5416, including 344 professional foster parents. (At the time of compiling the report, 2011 data were not yet available.)

The amount of fees due to foster parents for their activity is identified by the Act on the budget at any time. In 2012, a „traditional” **foster parent is entitled to a fee of HUF 15,000 /month/child or young adult**, and the **remuneration due to professional foster parents is HUF 135,000/month**, regardless of the number of children placed with them.

**In addition to the above, foster parents also receive a child rearing fee and allowance.**

The lowest monthly amount of **child rearing fee** - by child or young adult,

- shall be, in the case of average needs, 120 % of the minimum amount of old-age pension (**HUF 28,500**), at present **HUF 34,200** /month/child,
- in the case of a chronically ill or disabled child, or a child under three years of age (with special needs) shall be 140 % of the minimum amount of old-age pension, at present **HUF 39,900** /month/child with special needs,
- in the case of a child showing psychic or anti-social symptoms, or struggling with psychoactive substances (with special needs) shall be 150 % of the minimum amount of old-age pension, at present **HUF 42,750** /month/child with special needs.

The lowest monthly amount of the allowance - by child or young adult is 25% of the child rearing fee,

- in the case of average needs, shall be HUF 8,550 /month/child
- in the case of a chronically ill or disabled child, or a child under three years of age (with special needs) shall be HUF 9,975 /month/child with special needs,
- in the case of a child showing psychic or anti-social symptoms, or struggling with psychoactive substances (with special needs) it shall be HUF 10,688 /month/child with special needs.

In addition to the above, foster parents are also entitled to benefits provided by the family assistance system, such as family allowance, which in 2012 amounts to **HUF 14,800** /month/child in the case of a child with average needs, or, in the case of a chronically ill or severely disabled child, to **HUF 23,300** /month/child. (See Section 31, Point b.)

**At present, there are 45 foster parent networks with a valid operation licence.** Out of the 45 networks, **26 networks of foster parents are operated by the State or by local governments**; 19 networks are not operated by local governments: **there are 15 networks operated by a church and 4 by civil society organisations, so, based on the number of networks, the ratio between church and civil operators is 42%**. The development of foster parent networks was given a great momentum by the law highlighting their primary role in the provision of care substituting for the family.

In line with demand for care resulting from the decrease of capacities in children's homes (especially infant homes), and with children's needs, an amendment was made to the Child Protection Act on the introduction of a special professional foster parent legal relationship, entered into force as of 1 January 2011. A special professional foster parent may only take care of up to 3 children - or up to 7 chronically ill, disabled children or children less than 3 years of age. The institute of special professional foster parents was introduced into legislation as of 2003, for taking care of children showing psychic or anti-social symptoms, or struggling with psychoactive

substances (with special needs). The preparation of special professional foster parents to enable them for taking care of children with special needs started in 2007. Foster parents have received training in groups, free of charge, supported by the Ministry, and trainings are still in progress. The organisation of training for foster parents taking care of children with special needs is in progress, thematic curricula have been developed and accreditation obtained, also supported by the Ministry.

As of 1 January 2012, the distribution ratio of the various types of maintainers taking care of children in professional child protection system is as follows:

Care providing a home and follow-up care is mostly operated by County Institution Maintenance Centres (under the Act on consolidation, as of 1 January 2012, mandatory professional child protection care tasks were transferred from county self-governments to the newly established type of operators called County Institution Maintenance Centres or MIKs), but there are various other types of backers as well:

- in 14 counties, care provision is entirely operated by MIKs (taking care of 60% of all users of professional child protection system)
- in 3 counties (Bács-Kiskun, Csongrád, Komárom-Esztergom) care provision is entirely operated by churches,
- 2 counties present a mixed picture, with some care backed by MIKs and some by churches (in Hajdú-Bihar and Szabolcs-Szatmár-Bereg Counties) (all in all, church backers take care of about 20% of children and young adults receiving professional care),
- the Municipality of Budapest takes care of 10% of recipients of care providing a home and follow-up care (approximately 2,200 persons),
- out of the 23 towns of county rank, 5 operate their own set of institutions and provision of care, and about 6 or 8 of them have concluded a care provision agreement with another operator,
- some foster parent networks operating nation-wide also share in the task (networks with significant capacity include: SOS Children's Villages maintained by the SOS Hungary Foundation, the Foster Parent Network of the Hungarian Reformed Church Charity Service, and the Fészek (Nest) Foster Parent Network maintained by the Hungarian Baptist Church)
- also the 5 children's homes with nation-wide coverage, maintained by the competent Ministry.

The Child Protection Act took a very important step by transforming children's homes into low-capacity child communities with a cosy atmosphere of home. Using funds awarded to applications, as well as the own financial resources of self-governments, the **transformation of children's homes has already been completed in 15 counties**. Since the year 2002, we have spent HUF 1.9 billion on transforming children's homes within the scope of professional child protection system.

An invitation to applications for infrastructure development, launched in 2008 and financed from the Structural Fund contained a framework budget of HUF 2.2 billion **available to convergence regions**, 116 applications were received, including 24 from the child protection sphere. Out of the 36 winning applications 15 had come from the child protection field, and child protection applications received HUF 839,630,000 in terms of total support. As a result of the invitation for applications, 3 temporary homes for families and several children's homes and apartment-homes have been refurbished. At the **invitation to applications dedicated to the regional unit of Central Hungary** funds worth HUF 632,213,000 were made available. The invitation received 39 applications, including 9 from the child protection field. Out of the 9 winning applications 2 had come from child protection. The 2 winning applicants were awarded a HUF 254,453,139 support. As a result of the invitation for applications, one temporary home for families was refurbished, and 1 special children's home set up.

Concerning the resources of currently announced invitations to applications financed from the Structural Fund, it can be stated that from funds available for refurbishment, the renovation or refurbishment of all children's homes awaiting modernisation **can be completed by the end of the first half of the year 2015**, so as to be up to standards in accordance with the Child Protection Act.

One of the schemes inviting applications (SIOP-3.4.1.B-11/1 „Substitution of Boarding Facilities” – invitation to tender for convergence regions) is meant to facilitate the substitution of child protection institutions and provide new capacity in the fields of care lacking capacity, as the last step in the process of substituting children's homes. There is still a capacity for about 400 to 450 persons in old large capacity but overcrowded institutions with obsolete material conditions and an obsolete environment. Fields of care lacking in capacity include temporary homes for children in the field of short-term foster care, care for children with special needs (showing psychic or anti-social symptoms, or addictions) in the field of professional child protection system, moreover, follow-up home care provided to former recipients of care who have come of age.

The amount of funds available in the scheme is HUF 3 billion.

The other scheme inviting applications (SIOP 3.4.2-11/1 For Refurbishment of Boarding Facilities – invitation to tender for convergence regions) is meant to facilitate the modernisation of institutions operating in the field of basic child welfare, or in professional child protection system, in addition to the modernisation of institutions falling under the scope of the Social Welfare Act.

In the field of professional child protection system, the process of substituting/depopulating children's homes had already started in the mid-1990s, it has continued since the Child Protection Act (Gyvt.) entered into force and is planned to be concluded with the assistance of the SIOP-3.4.1.B-11/1 scheme. At the same time, child welfare and child protection facilities having the right material and environmental conditions to meet professional standards even before the entering into force of the Gyvt. and still in operation, as well as child welfare and child protection facilities established in the second half of the 1990s or at the beginning of the years 2000 and still receiving children have become ripe for renewal and modernisation, as a result of operation for 8-15 years, in order to provide higher quality care to recipients, and also for the purposes of energy- and cost-efficiency.

The invitation to tenders is highly focused on improving the quality of placement of children with disabilities or long-term illness, currently housed in multi-purpose public education facilities (formerly known as Primary School Student Hostels). At present, there are more than 1900 children with disabilities living in children's homes as recipients of care. Out of those 1900 recipients, around 400 to 450 children (the majority of them mentally disabled) are placed in multi-purpose public education facilities.

*Bearing in mind the recommendations contained in Concluding Observations No. 16 of the Committee, in the years 2005 and 2006, a working group was functioning, organised by the National Family and Social Welfare Policy Institute (as a background institution of the Ministry), examining dilemmas related to the origin of children getting into child protection system and to the possibility of recording their origin. As a result of that work, a professional recommendation was made in 2007. As a next step, the new methodology was described, entitled „Családtörténet feldolgozása fotóelemzés segítségével” (“Processing Family History using Photo Analysis”). Between the 2008 and 2009, the methodology was piloted by experts working in basic child welfare and professional child protection system and adjusted where necessary. In 2010, the methodology booklet called „Családtörténet, családi legendárium” (“Family History, Family Legends”) was completed, on the basis of which accredited training was launched in 2011 within the framework of further training for experts working with families, supported by the Ministry. This methodology assists both children living in the family and children removed from their families and placed into care, in building and developing contacts with their parents and relatives, in getting to know their family history and in the development and strengthening of the child's identity.*

The registration and satisfaction of the needs of the child according to ethnicity and religious belief, in compliance with current data protection provisions is possible in such a way that at the placement conference the parent can signal their need according to ethnicity and religious belief, which is then entered on the "Gyermekeink védelmében" data sheet, and the parents certifies the authorisation for handling data by signing it. However, probably due to social bias, this possibility is seldom used by the parents, in spite of the fact that data handling would entail a



number of advantages for the child, starting from the designation of the place of care through access to scholarships and cultural events.

### **Point 31 g**

During the time spent in care, the placement of children aged 0 to 3 years is reviewed by the guardianship offices on a six-monthly basis, and annually for children aged between 3 to 18 years. In each case, the guardianship offices convene the interested parties and jointly decide on the future of the child. This procedure is supported by the amended data sheets amended in 2007 related to the review of the registration system called “Gyermekeink védelmében”, where the best interests of the child, the completion of tasks contained in the placement plan and the individual custody and education plan, and the regulation of contact maintenance rights are given higher priority.

### **Point 31 h**

With Act LXXXV of 2005, Hungary ratified the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, adopted in The Hague, on 29 May 1993. The procedural rules contained in the implementation decree of the Child Protection Act have been modified accordingly. On the basis of the Hague Convention, in October 2005 the Central Authority responsible for implementation started to work at the Child Protection and Guardianship Affairs Department within the Ministry that was the legal predecessor of the Ministry of Human Resources. Over the past period, the Central Authority performed its activities with outstanding efficiency. *Out of the annual total adoptions of about 700 children in Hungary, an average of 130 children is placed in a family through inter-country adoption.* In Hungary, taking a child abroad for adoption is possible only in the case where actions taken for the domestic adoption of the child were unsuccessful; in order to ascertain that, and to promote domestic adoption, the Ministry operates a national adoption register. As a result of the activities of the Central Authority, a significant ratio of children taken abroad for adoption is of school age or suffering from a long-term illness. Another important progress is the fact that thanks to the cooperation of the Central Authority, the adoption of three or four siblings taken together can be effected, as there is little chance for that in Hungary. The number of cases when three siblings are adopted together by an adoptive family abroad can exceed 10 per year, so even children who had not had a chance before can now be brought up in an adoptive family.

Following Hungary's accession to The Hague Convention, the follow-up of adoptions was introduced, requested from the state party receiving the child, 2 months and 1 year after the adoption. Follow-up reports allow monitoring to see if children have been able to fit into the family and extended family, and into their school environment. Once abroad, the majority of children perform well or extremely well at their new school, even when they had had learning difficulties in Hungary, thanks to the comprehensive sense of security that children removed from child protection system get from adoption.

In *its Concluding Observations No. 35*, the Committee has recommended to bear in mind children's right to learn their origin. The 1997 amendment to the Family Act provides that **the adopted may request the guardianship office to provide information on their biological parent.** Above the age of 14 years, adopted children may file such a request independently, even without the consent of their legal guardian, that is, adoptive parent. Notwithstanding, the adoptive parent shall be heard in the proceedings by the guardianship office. In the course of the adoption proceedings, the parties shall be informed of this. The guardianship office shall not provide information if that would be contrary to the best interests of the adopted minor, especially when the parent's supervision right was terminated by court because of a criminal offence committed against the child.

In November 2010, Hungary signed the European Convention on the Adoption of Children (Revised) (No. 202.) Strasbourg, 27.XI.2008.), that can be ratified once the new Civil Code is adopted. In order to be in compliance with the Convention, and using the positive experience of inter-country adoptions, the new Civil Code is expected to introduce the follow-up of domestic

adoptions, which would be aimed at assisting the inclusion of children into their adoptive families. Furthermore, the new Civil Code would standardise statutory rules in that in the event of either secret or open adoption, the parent would be given 6 weeks upon the birth of the child to decide if they wanted to withdraw their consent for adoption. At present, the parent is entitled to withdraw their declaration of consent only in the event of secret adoption - when conceding to the adoption to their child without knowing the personal particulars of the adoptive parent.

In its Concluding Observations, the Committee calls for the adoption of children of adoptable status, where we have to remark that the striking disproportion between the number of adoptable children and the number of adoptions is due to the rather large number of children who are legally adoptable, but have no realistic chance of adoption, either because of their age – some of them are older than 14, or even 17 years -, or because of a serious long-term illness or multiple disabilities.

#### Point 31 i

Since 1986, Hungary has been party to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, which ensures cooperation with the 86 state parties in the interest of bringing back children abducted from Hungary or kept illegally abroad, and returning children abducted to Hungary from abroad or retained in Hungary illegally to the member state of their previous residence. In relation to EU member states, **Council Regulation (EC) No 2201/2003** of 27 November 2003 *concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000* is also applied to child abduction cases, which helps narrow down considerably the scope of cases where the return of children can be denied to EU members states. Hungary has also acceded to international conventions that enable the mutual recognition and implementation of child placement decisions between the state parties. Thus, Hungary has ratified the *European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children* ('the *European Custody Convention*') adopted in Luxembourg, within the framework of the Council of Europe (Act LXVIII of 2004). Furthermore, upon the accession of Hungary in 2006, the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children (promulgated by Act CXL of 2005) has also become part of Hungarian domestic law.

The Hungarian Central Authority, the Ministry of Public Administration and Justice, and other competent authorities always strive to settle cases amicably, in the best interests of the child. Within that framework the authorities inform parents on the legal possibilities of taking the child abroad, and promote the voluntary return of the child or reaching an agreement between the parents. Hungarian domestic implementation legislation on the return of the child has recently been amended, making it possible to simplify and accelerate the implementation of orders to return children abducted to, or illegally retained in Hungary. If the child is not returned voluntarily even after the order is issued, it may become possible to enforce the return of the child as soon as possible, preventing protracted implementation proceedings which would put the child into a difficult position.

Abduction of children from Hungary by parents is increasingly directed into EU member states, so the Ministry of Public Administration and Justice has published on its website information material for parents on applicable legislation and procedures, as well as on the possibilities of taking a child abroad, in order to prevent abduction.

#### Point 31 j

In 2009, the child rights project of the Commissioner for Fundamental Rights focussed on the protection of children from violence. Bearing in mind the findings of *Concluding Observation 37 of the Committee*, within the framework of the project, the Commissioner launched a comprehensive survey in children's homes taking care of children with special needs. Furthermore, the Commissioner initiated a survey (OBH 1904/2009) to examine the ability of the child protection signalling system to handle misconduct and neglect towards children.

Considerable progress has been made in the practical implementation of the reporting obligation concerning the prohibition of torture, corporeal punishment or any other cruel, inhuman or degrading treatment or punishment declared in the Child Protection Act, reinforced by the entering into force of **Act LXXII of 2009 on restraining orders applicable in cases of domestic violence**, when the restraining and signalling obligation became part of legislation and the entities responsible for the family protection coordination were designated, and deadlines and responsibilities identified. Within the framework of on the spot measures, police issues a restraining order upon ascertaining that such an order is justified on the grounds of immediate protection of life and limb, and of financial security. The same procedure is applicable to cases of suspicion of a criminal act or offence involving violence between relatives, when the use of measures of constraint applicable in criminal or minor offence proceedings is not justified. Child abuse may be realised both within and outside of the family. **Violence between relatives shall also be deemed child abuse** if the child living in the family is directly or indirectly affected by domestic violence. Therefore it is necessary to involve the child welfare service and, if necessary, the guardianship authorities, as police measures alone are not sufficient. To support police tasks, the Government has **designated municipality guardianship offices as the entities responsible for family protection coordination**. In such proceedings, the family protection coordination body is responsible for information supply - before it comes to violence, if possible. Such proceedings do not constitute a precondition for issuing a restraining order, however; they are merely meant to contribute to the timely detection of the threat of violence.

Under Act CXXXV of 2005 on assisting victims of crime and mitigation of damage by the state, victim support services can provide help to **victims of crime and criminal offences against property**. County and Budapest Municipality judiciary service are organised at county seats. The definition of victim includes, in addition to the injured party directly affected by a crime or criminal offence against property, all persons who can demonstrate to have been injured as a direct result of such acts. Injury shall mean causing grievous bodily or psychic torment (inducing serious intimidation, anxiety) or emotional shock (trauma, psychic disorder) or pecuniary injury directly attributable to the act.

Support may be received by Hungarian nationals, nationals of an EU member state, and nationals of a third state lawfully residing in the EU, stateless persons lawfully residing in the territory of Hungary, victims of trafficking in human beings, or the nationals of a state which has an international agreement or reciprocity with Hungary entitling them to such support. Hungarian nationals habitually residing in Hungary who became victims of an intentional criminal act against their person during their lawful sojourn abroad, and who are able to adequately prove it, shall be entitled to victim support services.

Some support services are due on the basis of civic right, and some can be used only by those in need because of their financial situation.

Applications and supporting documents can be submitted to any district victim support service. Services available to victims include: **facilitation of the assertion of their rights, immediate financial aid**, legal assistance and mitigation of damages by the State. Victim support services are also responsible for monitoring the assertion of victim's rights and for liaising with institutions listed in the Act.

A **national crisis management system** is being developed in accordance with the provisions of Act CXXXV of 2005, and the elaboration of victim support and damage mitigation programmes is in progress. Building on the institution base created by the Child Protection Act, the Act provides for the detection of persons becoming victims and for the organisation of their protection. If, in the course of their work, victim support services detect the endangerment of a minor, they shall alert without delay the child welfare service competent for the place of residence of the minor. If circumstances are found to pose a serious threat to the life or physical integrity of the minor, they shall initiate guardianship proceedings. In 2005, a crisis resolution pilot

programme for was launched by the crisis centres. Crisis centres provide special services to persons coming into a crisis situation due to domestic violence (violence between spouses, child abuse, and domestic violence against children committed by relatives, family members and persons abusing their power over children) that cannot be adequately resolved either by the local social welfare and child protection system, or by the natural supportive environment of the battered person concerned.

The number of institutions receiving victims of battery is on the increase, providing more capacity to take in the battered. In 2011, there were 11 institutions receiving victims of battery, with a total capacity for 61 persons, while in 2012 the number of institutions went up to 14, thus increasing capacities. Institutions providing care in crises receive victims of battery, including children, on the basis of alerts by the **National Crisis Management and Information Telephone Services**. In 2011, the Services were sought in 2021 cases due to family issues, domestic violence and abuse. The percentage ratio of calls when mother and child are both battered is 11.47% (232 cases), and the ratio of calls due to adults abusing children is 2.22% (45 cases). There were 27 cases (1.33%) of sexual abuse of children, and 9 cases (0.44%) of violence among children addressed to the Services. The Services helped place a total of 884 persons, including 669 child victims.

### Point 33

The rights of disabled children are enshrined in the Fundamental Law. Out of legislation within the framework provided here, the Child Protection Act defines that disabled and permanently ill children shall be entitled to special care facilitating their development and the development of their personality, irrespective whether they live in the family or in child protection care.

Daytime care for disabled children under the age of 3 may be provided by a day nursery catering to the early development, habilitation, and rehabilitation of the children, in addition to their basic needs. On the basis of the expert opinion of the rehabilitation committee of experts, in a day nursery disabled children up to 6 years of age receive development training and education.

Under the Public Education Act, schools attended by students of special educational needs may specify in their own curriculum a longer time for the fulfilment of the requirements of each year than one academic year, moreover, depending on the extent of disabilities, one student shall be considered as two or three students, so the number of students in classes reserved for them may not exceed 7 to 15 as the maximum limit. Institutions taking part in the education of students with special educational needs shall organise compulsory rehabilitation curricular activities with the purpose of health care and education, in 15-50% of total compulsory curricular activities. Longer time for preparation has to be guaranteed for the student at examinations, including secondary school leaving examinations, vocational examinations; they have to be allowed of the employment of the aid employed in the course of their school studies or, if necessary, the oral testing shall be substituted by written testing, and vice versa. They may be exempted from evaluation and assessment in certain subjects or parts of subjects by the head teacher; in such cases, the coaching and development of the student shall be provided in individual activity, on the basis of an individual development plan. All students with special educational needs are entitled to textbooks free of charge.

Students shall learn Braille's alphabet, augmentative and alternative communication skills at school, while early development and care received by children not yet attending school also includes suitable training for them to learn to communicate. Sign language is taught at schools attended by deaf students in the 7th and 8th form, but under the provisions regulating the education of deaf students they may receive school education in the sign language.

Since an amendment to the Public Education Act in 2006, children living with severe or cumulative disabilities shall also be subject to compulsory schooling, an obligation they may perform within the framework of developmental school education. The statutory deadline for the completion of the system of developmental school education was 1 September 2010. If a student cannot participate in developmental school education as stated in the expert opinion of the rehabilitation committee of experts, they fulfil their compulsory education within the scope of individual developmental preparation, where they shall receive such training at least eight hours a

week. Pedagogical programme of rehabilitation and, on the basis of that, individual development plans are prepared in developmental school education, where students are allocated to groups in function of their age and stage of development.

Act CXC of 2011 on national public education, entering into force on 1 September 2012, will continue to guarantee the right to special care for children with disabilities, who shall fulfil their compulsory schooling obligation with 20 hours a week spent in developmental training.

Chronically ill or disabled children living in child protection care, provided they cannot be integrated among healthy children, shall be education in special children's homes. In order to allow disabled children to be brought up in a family, but receive professional care at the same time, as of 1 January 2011, the Child Protection Act has introduced the institute of special professional foster parents.

In the interest of the assertion of disabled children's rights, it should be noted that Act XXVI of 1998 on the rights of the disabled and guaranteeing them equal opportunities scheduled the statutory deadline of 31 December 2008 for ensuring equal opportunities to access basic healthcare, and 31 December 2009 for ensuring to access professional healthcare. Thus, accessibility has been achieved in the scope of those institutions.

As of 2007, within the framework of the National Sports Federation for the Disabled, state sports management has, *inter alia*, supported sports opportunities for disabled children. Its responsibilities include: operation of a student sports system for disabled children, sponsoring recreational sports events, facilitating integration through sports, and sports rehabilitation programmes; regular extracurricular therapeutic sports training for disabled children.

Sports for disabled children are backed from central budget funds (HUF 230 million in 2012), coordinated by the Hungarian Special Olympics Federation, the Hungarian Parasports Federation, the Hungarian Sports Federation for the Physically Disabled and Visually Impaired, the National Student and Recreation Sports Federation for the Disabled, and the Hungarian Paralympics Committee. These national federations organise programmes specifically focussing on disabilities, and thus enabling the integration of disabled children through sports, in line with Point 40.d of the 2006 Concluding Observations of the Children's Rights Committee.

#### Point 34 a

The Fundamental Law declares that every human being shall have the right to life and human dignity; embryonic and foetal life shall be subject to protection from the moment of conception. (See Point 26. a)

Regarding the right to development of every child born, Act CLIV of 1997 on Health Care sets forth mandatory health screenings to promote health protection among the population, provided in detail within the scope of healthcare services and screenings falling under mandatory health care insurance, and services aimed at the prevention and early diagnosis of diseases.

Out of screenings tied to age, the screening of newborn children is mandatory, and - in cases regulated by law - the screening of children of compulsory schooling age.

Modernisation of the screening system for children born with metabolic diseases from 2007: instead of four diagnoses earlier on, 22 diagnoses are now screened for every child born in Hungary.

Within the scope of born-with disorders, priority is given to the Family Planning Service as a pilot programme aimed at reducing the number of marrowbone-closing disorders like spina bifida.

#### Point 34 b

Child healthcare services and institutions include general practitioner services providing basic paediatric care and district nurse counselling, professional healthcare and in-patient facilities. Basic paediatric care is provided by paediatrician GPs to 75% of the almost 2 million children

and young people under 18 years living in Hungary, and by so-called mixed-practice GPs (GPs providing health care to both children and adults) to around 25% of them. In 2009, on average, the ratio of children per paediatrician GP was 1186: in the 33 least favoured area (LFA) micro-regions this ratio was 2248, and in non-LFA micro-regions it was 1093. District nurse care is more evenly distributed: In 2009, the number of children per filled district nurse positions was 371 nation-wide, with 388 children in LFAs, and 366 in non-LFA micro-regions. Basic paediatric care also includes school healthcare, paediatric dentistry and standby emergency service.

#### Point 34 c

The Hungarian vaccination system is under constant renewal; in 2006 a more state-of-the-art vaccination procedure was introduced to prevent contagious diseases. Instead of 20 vaccines earlier on, 11 vaccines are now administered which equally provide protection against 10 diseases. At present, vaccines are mandatory, tied to age, against 10 contagious diseases (tuberculosis, diphtheria, pertussis, tetanus, poliomyelitis, morbilli, rubeola, mumps, invasive diseases caused by *Haemophilus influenzae B*, and Hepatitis B).

In the **mandatory vaccination system tied to age**, vaccines for the population are provided by the State free of charge, the vaccines used are of excellent quality and efficiency, vaccination occurs at an optimal age, and equal opportunities are totally guaranteed in access to vaccination by a stable legal framework, under State responsibility.

As of 2006, mandatory vaccination has been using the most state-of-the-art vaccines: so-called combined, multi-component vaccines have been introduced, providing protection against five diseases at the same time (diphtheria, pertussis, tetanus, poliomyelitis and diseases caused by *Haemophilus influenzae B* bacteria), at a single prick of the needle. The combined vaccine contains a so-called cell-less pertussis component, which has considerably less side-effects than the vaccine used over previous decades, so the acceptance level of mandatory vaccination has grown among the population,

Since the end of 2008, children under two years may receive a vaccine against pneumococcus free of charge.

As of 2009, the immunisation of teenagers against Hepatitis B has started at age 13 instead of 14, in order to ensure the protection of the most vulnerable groups as early as possible.

#### Point 34 d

In Budapest, a teenager outpatient facility is piloted, tailored specifically to teenagers' needs. It is accompanied by publications, and regular health days are organised to promote a healthy lifestyle. There is also a website providing teenagers with interactive access on health and prevention issues: [www.tinivagyok.hu](http://www.tinivagyok.hu) (the name of the website means "I am a teenager").

Concerning the prevention of accidents, a national action plan was adopted, with the target to reduce death from accidents in the under-24 population by 30%, as of 2010.

Short documentaries have been produced and trainings piloted to prepare first-aid teaching.

#### Point 34 e

Such harmful traditions and social practices are non-existent in Hungary.

There is a special working group operating within the National Institute of Child Health to promote the assertion of child rights on the basis of international experience.

#### Point 34 f

National Drug Strategies in force are focussed on prevention. Overall prevention activities target students and young people through mass media campaigns, internet websites, and education

programmes. Targeted prevention activities focus on particularly vulnerable populations (children of addicted parents, children dropping out of school and children with learning and integration difficulties). Furthermore, the strategy identifies (indicated) prevention programmes to exert a positive influence on the conduct of persons not considered addicts but showing the early symptoms of addiction or other behavioural problems. Since the year 2006, the Ministry responsible for social affairs publishes invitations to tender for the development of care facilitating the management of drug-related problems, for backing drug-prevention organisations and research, for the operation of Drug Coordination Fora and for the promotion of local strategies aimed at the management of drug-related problems. A new drug strategy is in preparation, focusing on prevention and health improvement.

In the field of sports, the effective anti-doping legislation is noteworthy. Government Decree No. 43/2011 (III.23.) on anti-doping rules sets forth more stringent provisions for doping offences committed against sports contenders younger than 18 years: final ban.

#### Point 34 g

Under the Criminal Proceedings Act, the minor children of an accused taken into custody who remain without supervision shall be handed over to their relatives, or placed through the guardianship authority. Pursuant to legislation on the enforcement procedure of measures and punishments, the right to health protection serving the development of a child of a pregnant woman or mother with minor children convicted of a crime shall not be restricted, without prejudice to law enforcement rules. If a woman gives birth during the execution of imprisonment, the newborn child shall be placed with the mother in the law-enforcement institution until the age of six months, or, as an exception from the rule, until the age of one year.

#### Point 35 a

Through the adequate operation of paediatric healthcare, children in Hungary have access to healthcare services justified by their health condition.

Pregnancy and confinement benefit and childcare fee are tied to the condition that the parent should have a legal relationship of determined duration as an insured.

Provisions are regulated by Act LXXXIII of 1997 on mandatory health insurance. Parents with at least 365 days of insurance history may use **pregnancy and confinement benefit** or **childcare fee**. Pregnancy and confinement aid is due for the duration of maternity leave (24 weeks), amounting to 70% of the former average salary. Childcare fee is due after the disbursement of the pregnancy and confinement benefit expires, and is due for the time of insurance, or up to the second birthday of the child. Childcare fee also amounts to 70% of the former average salary, but may not exceed 70% of double the minimum wage at any time (in 2012, HUF 130 200). While receiving pregnancy and confinement benefit or childcare fee, gainful activities may not be pursued.

If a child under the age of 18 years requires permanent or increased supervision due to long-term illness or disabilities, the person taking care of the child shall be entitled to a higher amount of family allowance.

*(Regarding daytime care for children, see Point 31. b.)*

#### Point 35 b

In order to improve children's quality of life and eliminate poverty and inequalities, related to the implementation of the "Making Things Better for our Children" National Strategy (2007-2032), the Secure Start Programme was launched, aimed at the elimination of child poverty and the social exclusion of children. To that end, it coordinates locally available services related to the 0-6 age group, fitting them into the system of locally available care, and builds communities providing a supportive environment to reinforce the child rearing competence of the parents. The purpose of the programme is to promote the development of the children, support families and parents, improve health culture, support children with special educational needs and their families,

and to strengthen local communities. The objectives of the programme are implemented through the adjustment of local care to local needs.

To make sure that no child remains without care, over the past years the Government has gradually increased the amount of the normative child meal allowance since 1 September 2003, and extended the scope of entitled users.

**The year 2012 budget provides a HUF 68 thousand normative support per child per year to the backers of institutions. Children attending day nursery and kindergarten, moreover, children in forms 1-8 of primary school receiving regular child protection benefit shall be entitled to free school meals.**

**A 50 % school meal allowance shall be due to:** older students attending classes 9-13 of school who receive regular child protection benefit; day nursery, kindergarten and schoolchildren not entitled to regular child protection benefit that are chronically ill, disabled or live in a family taking care of 3 or more children.

Meals from public catering are used by nearly 100 % of the approximately **32 thousand** children in day nursery, 93.5 % of the approximately **330 thousand** children in kindergartens, 61.5 % of the approximately **900 thousand** students in primary school, and 15 % of the approximately **550 thousand** students in secondary school.

The **summer child meal programme** has been implemented and extended, providing summer meals for disadvantaged children. In recent years the Government provided separate funds for the purpose. The allocated budget has gradually grown. In 2011, the Government spent HUF 2.4 billion for the purpose, and approximately 136 thousand children in need were given regular meals during the summer school break. *Within the programme against child poverty, the 2012 budget has also earmarked HUF 2.4 billion for summer meals.* The commitment is used to support the performance of tasks of local governments providing summer meals for the children. Support from the commitment may be requested by local governments undertaking to provide regular meals during the summer to children receiving regular child protection benefit.

#### Point 37. a

Under the Public Education Act, and the Act on Local Councils, kindergarten, primary and secondary school education (in secondary grammar schools, secondary vocational schools and vocational schools) shall be free of charge, including the use of pedagogical professional assistance services supplementing teaching, as well as student hostel care and the acquirement of the first vocational qualification.

The parents shall make sure that their child performs the obligation of compulsory schooling. The notary shall monitor, or, if applicable, order the performance of compulsory schooling, should the parents fail to perform their obligation.

The municipality local government shall provide kindergarten and primary school education - as of 1 January 2012, the latter obligation has been transferred to the State. The State provides secondary school, vocational school and student hostel education for children receiving prolonged medical treatment in a healthcare facility, and the education and care of disabled children who may not be educated along with the other children.

It is the right of the parents to request that the kindergarten and the school or student hostel should give information and impart knowledge in an objective and multifaceted manner in their educational programme and activities, in their pedagogical programme and activity, and facilitate the religious education and instruction at state and local government educational-teaching institutions.

The Public Education Act provides for pedagogical professional services, including further training and career counselling as a mandator responsibility. Preparation for adult roles is highlighted in the National Core Curriculum as a key development task, including career orientation as an important element, with the overall objective of helping students in the choice of their further training and career.



### Point 37 b

The purpose of education is to promote the physical, intellectual, emotional and moral development of children and students. To that end the education institutions co-operate with parents in order to develop the personality of children and students and to evolve their abilities; prepare students for family life and family planning.

The contents of public education are regulated by the National Core Curriculum, which helps implement the operation of schools where democracy, humanism, respect of the individual, freedom of conscience, cooperation of fundamental communities (the family, the nation, the community of European nations, humanity), the equality of people, nations, nationalities, ethnic groups and sexes, and the values of solidarity and tolerance constitute the basis for the organisation of teaching and learning processes.

It defines a cultural education content to be taught in a standardised manner, identifies the key competences designated by the EU as joint development objectives, specifies the common values and mandatory targets of education and teaching, knowledge, skills and competence requirements, and thereby guarantees access to good quality education. It focuses on basic skills to be acquired as effectively as possible, thereby improving further education results and reducing the threat of dropping out of school.

In order to improve the labour market opportunities for students dropping out of school without qualifications, the Government has introduced vocational training lasting for three years. Upon completing primary school, students can directly access three-year vocational training at a particularly susceptible age, and learn practical trade skills during grades 9-11, so drop-out rates can be diminished, and students can obtain vocational qualifications. For those leaving school with low qualifications, the opportunity to attend schools for adults presents a second chance. Programmes providing primary school or secondary school leaving certificates allow barely employable groups to rejoin the legal labour market. Another opportunity is presented by the so-called "second chance" programmes, aimed at helping young people without secondary school qualifications who dropped out of the school system, partly above mandatory school age, to obtain secondary qualifications.

### Point 37 c

Under the Public Education Act, parents have the right to the free choice of educational and educational-teaching institution. On the basis of the right to the free choice of educational and educational-teaching institution, they can choose kindergarten, school or student hostel in compliance with their children's abilities, faculties and interest and their own religious and ideological convictions, and their particular national or ethnic status.

### Point 37 d

Regular reviews of the National Core Curriculum (hereinafter NAT) have resulted in the integration of contents and tasks defining the development of competencies required for individual self-assertion. They include social and citizenship competencies which are "based on the understanding of the notions of democracy and citizenship, learning civil rights and overall respect for human rights". Education on becoming active citizens and democracy is given greater emphasis; furthermore, NAT has been supplemented with a new chapter called "The principles of assisting equal opportunities in learning". The Man and Society discipline of NAT is particularly suited for the development of social and citizenship competencies.

The key development tasks of the Man and Society discipline of the National Core Curriculum are: education to respect personality and human rights, strengthening national identity, historic and civic awareness. Social sensibility, openness to social issues in function of age, taking responsibility for the environment, learning and accepting other cultures, and humane conduct protecting values also emerge as fundamental values, and public education also targets the development of knowledge and skills related to using democratic institutions, equal treatment and equal opportunities.

Based on the National Core Curriculum, the development of social and civic skills respective of fundamental rights, human rights and child rights is also contained in **framework curricula and local curricula**.

The education of professional experts dealing with children is an important requirement and prerequisite for the education of children and shaping their understanding of human rights. Comprehensive education on child rights within the teaching profession is included under the professional qualification requirements of family and child protection teachers. In addition to the above, child rights are also taught at various teaching departments, to the extent required for the particular education procedures of the institutions concerned.

#### Point 37 e

In the field of student sports activities, recreational sports and student tourism play an important role, and the Hungarian Student Sports Federation is devoting increasing attention to them. Through the Hungarian Olympic Committee, the Ministry of Human Resources uses central budget funds to support student sports events, student, recreational and student tourism programmes organised by the Hungarian Student Sports Federation, with HUF 167 million in the year 2012. In ball games, the emergence of the "amateur" category also provides opportunities for sports, and it may lead to an increase in the number of participants in students' sports.

The purpose of the invitation for applications called "Support for recreational sports activities aimed at health improvement", announced in 2011 by the Ministry of Human Resources was to provide the conditions for the operation of recreational sports associations (particularly student sports associations), improve the set of conditions required for the performance of their tasks, promote their participation at recreational sports events, and to assist them in the procurement of sports tools and equipment necessary for exercising their activities. The total budget of the tender was HUF 100,000,000.

Within the framework of assistance to the recreational sports activities and events for the disabled and vulnerable communities (with a framework budget of HUF 50 million in 2011), it helped teenagers get some health development exercise.

Between the years 2008 to 2011, the New Hungary Development Plan allocated a HUF 450 million support to 95 museum facilities for the development of their museum pedagogy service activities assisting public education and lifelong learning. Under the programme, 100 thousand children and students aged 3 to 26 took part at museum pedagogy activities. From 2008 to 2012, within the framework of the New Hungary Development Plan and the New Széchenyi Plan, development took place in the library system. The main target group of developments were children. The programmes were aimed at supporting high quality education as efficiently as possible, by improving reading and digital skills which can be facilitated through library services. Libraries provided up-to-date skills for the useful spending of free time and access to culture, through a series of activities promoting reading and facilitating the use of libraries. Child portals were set up using up-to-date info-communications technologies, and library services suited to the needs of the age group. Development funds targeting children and young people amount to HUF 2 billion. Several hundreds of thousands of children have taken part in the programmes throughout Hungary.

#### Point 39. a

The right to asylum is also enshrined in the Fundamental Law, Article XIV, Paragraph (3). Act LXXX of 2007 on asylum was last amended in December 2010, and the amendments entered into force in 2011.

**Unaccompanied minors** are foreign nationals under eighteen who entered the territory of Hungary without being accompanied by the adult statutorily or habitually responsible for their supervision, or were left without supervision upon entry.

In case of doubts as to the age of an asylum seeker claiming to be of minor age, forensic examination may be initiated to establish his or her age, which may be performed upon their consent, or that of their legal or provisional guardian. In practice, on the basis of three types of forensic examinations - heel of the hand X-ray, teeth and secondary sexual characteristics - a standardised expert opinion establishes if the asylum seeker may be deemed a minor. In the event that age cannot be clearly established, the lowest value of the age range established by the forensic expert shall prevail for deciding the age of the client, so in case of doubt (e.g. aged 17 to 19), the person shall be regarded as a minor by the authorities responsible for refugee matters. The application of an asylum seeker may not be rejected on the sole basis of not having consented to undergo examination, but in that case the provisions applicable to minors - except for the involvement of a legal representative or designating a provisional guardian - may not be applied.

Unaccompanied minors are deemed to be persons requiring special treatment under the Act on asylum. With regard to that, refugee proceedings shall be conducted with urgency, and a provisional guardian shall be designated to the minor during the proceedings. The provisional guardian - usually a lawyer - shall be designated by the guardianship authority. The responsibilities of a provisional guardian include informing the asylum seeker on the personal hearing, how to prepare for it, and what will be the consequences. Minors may only be heard in the presence of their provisional guardian.

Unaccompanied minors may not be returned to their country of origin, if family reunification, state or other institutional care cannot be ensured either in their country of origin or another state accepting them. This is a rule protecting unaccompanied minors even if, on the basis of the refugee proceedings, they are not entitled to recognition as refugees or persons entitled to subsidiary protection - in that case, an unaccompanied minor shall be recognised as a person with humanitarian permission to stay. Refugee authorities shall trace the person responsible for the supervision of an unaccompanied minor asylum seeker, refugee or entitled to subsidiary protection, unless on the basis of information available to the authorities it can be presumed as not serving the best interests of the child. In practice, the refugee authorities perform this task primarily in conjunction with the Red Cross Tracing Service.

Under **Act LXXIX of 1993 on Public Education**, a minor who is not a Hungarian national shall be entitled to kindergarten care or become subject to compulsory schooling in Hungary if they are applying for asylum or are refugees, persons of subsidiary protection status or asylum seekers; if they exercise the right of freedom of movement and residence in Hungary; are immigrants or holders of a permanent residence permit.

Since recent years, Hungary has provided dedicated support from the budget for the education of students of compulsory school age who are not Hungarian nationals. Children seeking recognition, or with refugee or subsidiary protection status may be given financial assistance in the form of tuition allowance or school enrolment support related to the performance of their compulsory schooling obligation. **Act CXC of 2011 on national public education**, entering into force on 1 September 2012, will not restrict the scope and extent of assistance.

In the academic year 2009/2010:

|   |            |
|---|------------|
| The number of children attending school, placed in the Refugee Station in Debrecen:                                     | 62 persons |
| The number of children attending school, placed in the Refugee Station in Bicske:                                       | 17 persons |
| The number of children placed in the Home for Unaccompanied Minors or in the Home for Young Refugees, attending school: | 54 persons |
| Living in Budapest, in private accommodation  | 26 persons |

In the academic year 2010/2011:

|   |            |
|---|------------|
| The number of children attending school, placed in the Refugee Station in Debrecen:                                     | 42 persons |
| The number of children attending school, placed in the Refugee Station in Bicske:                                       | 9 persons  |
| The number of children placed in the Home for Unaccompanied Minors or in the Home for Young Refugees, attending school: | 38 persons |
| Children living in Budapest, in private accommodation:  | 31 persons |

Prior to 1 May 2011, until completing eighteen years of age, unaccompanied minors seeking recognition in Hungary were placed in refugee stations suitable for the separate placement and

care of minors. As of 2009, within a project implemented with assistance from the European Refugee Fund, the refugee authorities started to operate a special home at this refugee station. Specially qualified social workers there provided 24-hour supervision over unaccompanied minors to protect them from traffickers in human beings or from disappearing accidentally. In addition to the above, a number of activities were provided, tailored to the specific needs of unaccompanied minors in the home (school coaching to help them catch up, cultural orientation, psychological assistance, skills and competence development, etc.).

**Under statutory provisions on refugees in force as of 1 May 2011, unaccompanied minors seeking recognition shall be placed within the framework of the professional child protection system,** in line with child protection legislation. Accordingly, the scope of the Child Protection Act shall cover unaccompanied minors seeking recognition, moreover, children recognised by the Hungarian authority as refugees or persons entitled to subsidiary protection. In line with that, as of 1 May 2011, unaccompanied minors seeking recognition have been placed within the child protection system. Between 1 May and 30 August 2011, commissioned by the Ministry of Human Resources, the Hungarian Ecumenical Charity Organisation provided placement and care for unaccompanied minors seeking recognition within the Refugee Home for Unaccompanied Minors, rented on the premises of the Refugee Station in Bicske. As of 31 August 2011, placement and care for unaccompanied minors is provided in the Károlyi István Children's Centre in Fót.

The admission of unaccompanied minors into the state child protection system is also in service of the paramount principle to heed the best interests of the child, promoting action against rough treatment and neglect. As of 2011, projects implemented with assistance from the European Refugee Fund help prepare the child protection system for receiving children coming from a foreign culture who do not speak Hungarian. **On 31 December 2011,** the number of users of care in the child protection facility in Fót consisted of **39 unaccompanied minors,** including, **17 applicants and 22 minors with refugee** status. The number of migrants receiving follow-up care (having come of age in the child protection system) was **34** persons.

#### Point 39 b

Under refugee legislation applicable to minors victims of sexual abuse, serious neglect, exploitation or cruel, inhuman or degrading treatment, furthermore, minors suffering from traumas inflicted by armed conflicts, in order to provide such minors with suitable rehabilitation, and, if applicable, mental hygiene services and professional counselling, the refugee authorities shall alert the competent healthcare institution, and, in the case of unaccompanied minors, the competent child protection facility.

39. b./i. With regard to the fact that the Optional Protocol on the Involvement of Children in Armed Conflict was ratified in 2009, its implementation will be reported separately.

#### Point 39 c/i.

Under Act XXII of 1992 on the Labour Code, persons having attained the age of 16 may be engaged in regular employment. For the legal representation of persons with diminished legal capacity, the consent of their legal representative is required. For employment purposes, persons under the age of 16 shall be considered young employees. Students attending the regular day session of primary schools, vocational schools or secondary schools may be employed in regular jobs during the holidays, provided they are over 15 years old. Upon **approval by the guardianship authorities,** young employees of compulsory school age may be employed within the scope of arts, sports, modelling or advertising activities, unless that would harm the best interests of the child. If a person under the age of eighteen years has another legal relationship (contract) aimed at work performance, entering into such a legal relationship shall be subject to the same rules, moreover, the statutory provisions governing the employment of young employees. Women and young employees shall not be employed for work that could be

detrimental to them regarding their body build or maturity. The violation of such rules shall entail nullity under labour law.

Under the Criminal Code in force, having forced labour conducted by a minor is deemed a qualified case of **endangering a minor**.

Although the Criminal Code in force does not regulate child labour separately, the Criminal Code under preparation will include two legal facts dedicated to the topic. Under the title **Forced Labour**, a new legal fact will be added to the Act, providing for more severe punishment for having forced labour conducted by a minor. Furthermore, the violation of safeguard rules governing labour provisions related to minors will be regulated under the title **Child Labour**.

As of 1 May 2010, a minor may only be sentenced to labour in the public interest if the accused was above the age of 16 at the time of the ruling. Until 1 May 2010, minors could be sentenced to labour in the public interest if they were above the age of 18 at the time of the ruling. The Act will reduce the age limit from eighteen to sixteen years. The reduction of the age limit is in compliance with the Labour Code. In accordance with the amendment to legislation, the reduction of the age limit has contributed to the scope of applicable court sanctions, minors aged between 16 and 18 years may also be inflicted the punishment of labour in the public interest.

Recent empirical experience - child labour used in motorway constructions - and **alerts by the Commissioner for Fundamental Rights** have shown that labour authorities did not address the child protection system when encountering child labour at labour inspections. In order to remedy that, as of 1 January 2011, in amendment to the Child Protection Act, labour authorities have been included in the scope of the child protection signalling system.

#### Point 39 c/ii.

Under Criminal Code. in force, any adult person who produces, manufactures, acquires, possesses, imports or exports narcotic drugs into or from Hungary or who transports such substances through the territory of Hungary is **punishable more severely** when **having used a minor under eighteen** to commit such acts. Any person who **offers or supplies narcotic drugs to a minor under eighteen or is engaged in distributing, trafficking or dealing narcotic drugs using such a minor** shall be punishable even more severely. Furthermore, such acts qualify as aggravated cases when a person offers or supplies narcotic drugs or is engaged in the distribution, trafficking or dealing of narcotic drugs inside or in the proximity of a building serving the purpose of education, public learning, child welfare, child protection or cultural and educational activities. Additional aggravating circumstances may lead even to life imprisonment for the offender.

Any person over the age of eighteen who **offers assistance or tries to persuade a person under the age of eighteen to engage in the pathological indulgence** in a substance or agent that has a narcotic effect but is not classified as a narcotic drug is guilty of a felony and shall be punished by up to three years' imprisonment.

#### Point 39 c/iii.

Within the scope of crimes against sexual morals, the Criminal Code provides increased protection to minors.

Under Criminal Code, any victims under twelve years of age shall be deemed incapable of defence; therefore crimes against sexual morals shall always qualify as violent crimes if committed against them. Age continues to play an important role even above age twelve, until a person becomes of age. In the event of crimes committed against persons aged between 12 to 14 years, an offender over the age of eighteen who had either sexual intercourse, or engaged in fornication with such a minor shall be punishable for seduction, while an offender under the age of eighteen shall be sentenced for seduction only in the case of intercourse.

Crimes with illegal pornographic materials are punishable under Section 204 of Criminal Code. Under legislation in force, minors are entitled to criminal protection against pornographic type abuse. Lawmakers do not intend to exclude from such protection persons above sixteen who have come of age due to marriage, so the scope of passive subjects will be changed to persons under eighteen. Such a solution, by the way, will organically fit into the category of crimes against sexual morals under Criminal Code, where being under age fourteen or eighteen is of fundamental importance. Crimes related to child pornography are the following: producing, distributing, propagating or conveying child pornography, offering child pornography or making it available, obtaining or possession of child pornography.

Within the scope of prostitution (Criminal Code, Section 205), for some *modus operandi* legislation provides for special protection of minors. The promotion of prostitution and pandering shall qualify as aggravated cases, punishable with imprisonment from two years to eight years, if committed against persons who have not yet completed their eighteenth year.

In the new Criminal Code, the Crimes against Sexual Morals chapter will be entirely restructured. Accordingly, cases where pornographic images are produced of a minor, and/or such pornographic images are distributed or made available, obtained or possessed, will be regulated under the title **Child Pornography**. In the new Criminal Code, prostitution-related crimes involving minors will be re-codified under a single title called **Child Prostitution**, so that persons making profit of such abuse of children shall reckon with severe punishments.

#### Point 39 c/iv.

With regard to the fact that the Optional Protocol on Child Prostitution and Child Pornography was ratified by Hungary in 2009, its implementation will be presented in detail in the first country report.

Kidnapping is punishable under Section 175/A, and trafficking in human beings under Section 175/B of Criminal Code. Regarding the victims of kidnapping, the law does not make distinctions according to age, however, in the event of trafficking in human beings, if committed to the detriment of a person under eighteen years, it qualifies as an aggravated case subject to more severe punishment.

Heeding action called for by the *Committee in its Concluding Observation No. 58* - following the adoption of appropriate domestic legislation - Hungary has ratified by Act CII of 2006 the Optional Protocol on the Prevention of Trafficking in Humans, especially the Sale of Children, Child Prostitution and Child Pornography of the UN Convention against international organised crime adopted in Palermo, on 14 December 2000.

In the first half of the year 2011, under the Hungarian Presidency of the EU, the so-called Budapest Roadmap was elaborated, adopted by the JHA Council (the Council of Ministers of Justice and Home Affairs of the European Union) on 10 June 2011. The Budapest Roadmap provides guidance for building an efficient high quality victim support system.

The Roadmap highlights the criteria to identify particular groups of victims (children, persons with disabilities, victims of sexual abuse and trafficking in human beings) and their needs depending on the type of crime they suffered and personal characteristics.

The European Cooperation Department of the Ministry of Justice is responsible for operating the THB Mechanism (the national coordination mechanism against trafficking in human beings). The purpose of the mechanism is to create a victim-oriented attitude, develop coordinated action against trafficking in human beings, and continuously monitor and evaluate the international situation, furthermore, harmonise the activities of government agencies and NGOs against trafficking in human beings.

(See Points 28.i and 31.i)

### Point 39 e/i.

Under criminal law, the threshold age for punishability is 14 years, and being of child age excludes punishability. An offender aged between 14 and 18 years is deemed a minor, subject to more lenient rules under criminal law than adult offenders regarding substantive, procedural and implementing provisions.

Concerning juvenile offenders, as a consequence of **active repentance**, their **punishment may be dispensed with** altogether if the offenders undertake - until charges are brought against them, through mediation proceedings - to refund or remedy the damage inflicted, in a way and to the extent acceptable to the injured party, or a drug-addicted suspect accepts to undergo medical treatment for drug addiction, or take part in another form of care treating the use of drugs, or in a drug addiction programme or preventive counselling.

Juvenile proceedings include criminal cases instigated because of acts of crime committed by offenders under the age of eighteen years. Criminal proceedings where the injured party is a minor or of child age (such as endangerment of a minor, failure to provide maintenance, crimes against sexual morals committed against minors, such as child pornography, etc.) are subject to rules governing criminal proceedings conducted against adults.

Pursuant to the provision in force until 1 September 2011: "In juvenile cases falling under the jurisdiction of a local court, the local court of the county seat shall proceed, and, in the area of the Metropolitan Court, the Central District Court of Pest; the jurisdiction of such courts in juvenile cases shall extend to the whole county or metropolitan area."

As of 1 January 2012, pursuant to the Act on Criminal Proceedings (Criminal Proceedings Act), Section 448, Paragraph (2): in court proceedings brought against juveniles, the designated judge in the first instance shall be the president of the council (a single judge), while in the second instance and - except for the Curia - in the third instance, a member of the council shall be a judge designated by the President of the National Judiciary Office.

At the prosecutor's office - bearing in mind that, as a result of the above amendment, court proceedings against juveniles are also conducted before town courts with overall jurisdiction - the former number of around 100 prosecutors designated for proceedings against juvenile accused has changed to around 900 prosecutors. However, supervision over the investigation still falls within the remit of prosecutors designated at town prosecutor's offices for proceedings against juveniles, who are also responsible for preparing charges.

As of 1 January 2012, the Act on Criminal Proceedings, Section 460, paragraph (3) has changed: "the presence of the prosecutor shall be mandatory at hearings. In criminal proceedings brought against juveniles, the case shall not be represented by deputy prosecutors and trainee prosecutors". Under Section 461, Paragraph (1), in force as of 1 March 2011, a hearing shall not be conducted *in absentia* of the juvenile accused.

Concerning the **duration of proceedings**, taking into account the time from ordering the investigation until the final verdict, proceedings are completed within one year in the case of around 1/3 of the accused (2011: 36.89%), while from indictment until the first instance court ruling in the case of 2/3 of the accused (2011: 65.58%).

Protracted criminal proceedings are of significance also for juveniles sentenced to enforceable imprisonment, because if the convict has completed his twenty-first year at the time of incarceration, or completes it during execution, the court shall define the degree of the execution of imprisonment on the basis of substantive law provisions governing adult cases.

Hopefully, changes to legislation entered into force in the year 2011, meant to accelerate proceedings will have the additional benefit of shifting jurisprudence from sentences to imprisonment to a more frequent application of education in a reformatory institution.

Point 39 e/ii.

Concerning the obligation to inform juvenile offenders, the Criminal Proceedings Act (hereinafter: Criminal Proceedings Act) does not contain particular rules. According to a general rule, applicable also to adults accused (Criminal Proceedings Act Section 179, Paragraph (1), the accused shall be heard as a suspect if there is reasonable suspicion that they committed a crime. A suspect in detention shall be heard within 24 hours.

In proceedings brought against juveniles, the **presence of defence counsel is mandatory** (Criminal Proceedings Act, Section 450). In the event that the accused does not have an authorised lawyer, the investigation authorities, the prosecutor or the court shall order a lawyer for them (Criminal Proceedings Act, Section 48).

In criminal proceedings, the right of the legal representative to attend, to comment, provide or request information, make a motion or appeal shall be governed by the rights of the lawyer. If the legal representative committed the crime together with the juvenile, or his or her interests are otherwise in conflict with the interests of the juvenile, the guardianship office shall order a provisional guardian in the interest of the juvenile.

Criminal Code. Section 109 is in harmony with Article 37, Point b) of the Convention providing that "under the law, juveniles shall be punished with imprisonment only as a last resort (Ultima ratio principle), in the shortest duration possible." Accordingly, punishment curtailing personal freedom and imprisonment shall always be preceded by education in a reformatory institution, which is a measure curtailing personal freedom, while measures curtailing personal freedom shall be preceded by punishments not curtailing personal freedom and measures not curtailing personal freedom.

In line with Article 37, Point a) of the Convention, a provision of the Criminal Code. in force sets forth that from among principle punishments, life imprisonment may not be applied against a juvenile.

Under legislation currently in force, the following sanctions may be applied against juveniles: from among principle punishments, imprisonment, which may only last for a definite duration. The general minimum for juveniles is one month, while the longest duration of imprisonment varies, depending on the upper limit of punishability and on whether the accused completed his or her sixteenth year when committing a crime; in accordance with that, it may be five, ten or fifteen years of imprisonment. Even cumulative punishment or the sum total of punishments may not exceed twenty years. In the case of juveniles, the duration of imprisonment is shorter than it is for adults, as opposed to one month for juveniles; the general minimum for adults is two months. The imprisonment of a juvenile shall be executed separately, in a dedicated law enforcement institution for juveniles, juvenile prison or detention centre for juveniles; high security prison as the most severe degree is not applicable for juveniles. Changes are not expected in this respect, even upon adoption of the new Criminal Code.

Under the provisions of legislation in force, **Law-Decree No. 11 of 1979 on the enforcement of measures and punishments, Article 30, Paragraph (1)**, during the execution of imprisonment, women shall be separated from men, and juveniles separated from adults. If a convict completes his or her twenty-first year during the execution of imprisonment in a juvenile prison or detention centre for juveniles, the degree of imprisonment shall be determined by a law enforcement judge upon hearing the convict.

**The applicability of measures is also different** in the case of a juvenile. Concerning prohibition from public affairs, a juvenile may be prohibited from public affairs only if sentenced to imprisonment over one year. Juveniles living in a suitable family environment may not be banished from the locality where their family lives. There is a wider range of possibilities for parole, since the law says that juveniles may be placed on parole in any case. A fine may be inflicted on a juvenile, if he or she has independent earnings (income) or appropriate property.



Under Act LXIX of 1999 *on minor offences*, Section 14, Paragraph (2), in force as of 19 August 2010 provides for the duration of imprisonment in the case of juveniles:

„The shortest duration of imprisonment shall be one day, while its longest duration shall be sixty days, or, in the case of juveniles, thirty days (generally 60 days); *during the execution of imprisonment, juveniles shall be separated from adults.*”

Point 39 e/iii.

The primary aim of a punishment or measure applied against a juvenile is for the juvenile to develop in the right direction and become a useful member of society. A punishment shall be inflicted when the application of a measure is not expedient. A measure or punishment involving the withdrawal of freedom may only be applied if the aim of the measure or punishment may not otherwise be achieved. (Criminal Code., Section 108). The application of education in a reformatory institution entails curtailing the personal freedom of the juvenile; however, it is not a punishment, but a measure.

The prosecutor's office conducts legality checks in both law enforcement institutions for juveniles and reformatory institutions.

During such legality checks, the prosecutor conducts random hearings among the prisoners. Upon order of the Prosecutor General's Office, the prosecutor for juveniles shall control, at least twice a month, the legality of enforcement of education in a reformatory institution, and check the legality of pre-trial detention enforcement, especially the regularity of the documents constituting the grounds for admission, compliance with imprisonment deadlines, the circumstances of custody, treatment, and guaranteeing the rights of juvenile detainees. The notes recorded on the control shall be sent to the head of the reformatory institution, including, if applicable, initiation of action.

As of 15 August 2011, upon the initiative of the head of the Independent Child and Youth Protection Unit of the Prosecutor General's Office, a box of complaints has been put out in the buildings where detainees are held, in community rooms and in the premises for visitors, where complaints may be put in anonymously; the key to the box is held by the juvenile prosecutor exercising legality control over the reformatory institution, and the contents of the box are checked during each legality control by the prosecutor conducting the control. Over the past period, several disciplinary or criminal proceedings were brought because of crimes committed against one another among the juveniles, and because of violation of minors' rights within the institution, that came to the prosecutor's knowledge in that way.

The prosecutor responsible for juveniles controls the enforcement of special rules applicable to the pre-trial detention of juveniles in police custody and law enforcement institutions at least once in every quarter.

Juveniles are entitled to more frequent and longer telephone contacts with their relatives than the statutory minimum. Moreover, juvenile detainees may exercise their rights in more ways, lodge complaints and ask for legal assistance. Within that scope, they may ask to be heard by a prosecutor, address a letter to the head of the institution in a sealed envelope, write to international organisations and authorities, request on an application form to be heard in person by the head of the institution, and they may freely consult the legislation register available in the library of the institution.

Point 39 e/iv.

Under Criminal Code. Section 18, Paragraph (1), the court shall order education in a reformatory institution if the expedient education of the juvenile necessitates placement in an institution. Education in a reformatory institution may last from one to three years. A person who has completed his nineteenth year shall be released from the reformatory institution. The enforcement

of education in a reformatory institution is governed by Decree No. 30/1997 (X. 11.) of the Ministry of Public Welfare (NM).

In reformatory institutions operated by the Ministry of Human Resources, the measures enforced against juveniles are pre-trial detention and education in a reformatory institution. At present, there are four reformatory institutions operating in Hungary: one for girls, with a capacity for 78, and three for boys, with a total capacity for 364 persons. The enforcement of pre-trial detention and education in a reformatory institution are separated in both types of institutions, but the correctional and educational character of the measure is equally asserted in both, facilitating the social reintegration of the juvenile. **The establishment of a new reformatory institution, with a capacity for 80 boys is in preparation in the Transdanubian region, under the SIOP 3.4.3. key project;** the amount of funds available is expected at HUF 2.25 billion.

The purpose of education in reformatory institutions is to facilitate the social integration of juveniles, and, to that end, mitigate adaptive disorders, improve their psychological condition, school and professional qualifications, acceptance of basic moral standards, and prepare them for a healthy lifestyle, that is, to increase the re-socialisation opportunities of juveniles.

The methods used in reformatory institutions - in education, teaching, training and other activities - are of corrective, substitutive and development character; tailored to individual needs; with special attention to socio-therapeutic and psychotherapeutic programmes and methods, as well as methods to exert a positive influence on groups and individuals.

Young people who arrive without completing 8 years of school receive primary school education, and afterwards they are also given the opportunity to learn a trade within the institution.

Juveniles of compulsory school age held in law-enforcement institutions also receive education, furthermore, institutions use the incentive of scholarships to promote learning among those who are not of school age, and - in the form of distant learning - offer them the possibility to attend secondary or higher education. At present, there are several juveniles placed in institutions having passed or preparing for their secondary school leaving examinations.

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Further training is organised once a year, at the education centre of the prosecutor's office. At further training lasting for 3 to 4 days, professional consultation is provided for approximately 30 persons per year, where in addition to topical issues, special topics are discussed as well, such as the European Commission recommendation on child-friendly justice in the year 2011.

The Minister of Public Administration and Justice, the Minister of Home Affairs and the Minister of Human Resources set up a working group until 31 December 2012, called **Gyermekbarát Igazságszolgáltatásért Munkacsoport (For Child-friendly Justice)**; its annual action plan includes consultations with organisations training the experts to develop child-friendly justice, and the preparation of a training plan, as a result of the consultations.

In addition to that, the central court training plan of the **Hungarian Academy for Judicial Training** (from 1 January to 15 July 2012) already includes presentations on topics such as family case law issues within particular types of cases, the possibility and experiences of mediation in legal disputes between spouses, the criminological, substantive law and procedural characteristics of special rules on juveniles, and hearing witnesses under the age of 14 years.

Among further trainings organised for the judiciary, there is a two-day training for judges hearing family law cases to review EU family case law and for discussing issues related to the application of family law. Moreover, there are also two-day trainings for civil law judges including small workshop exercises processing family law cases. The main topic for investigation judges is hearing minor witnesses. A separate two-day further training is dedicated to refreshing substantive law and procedural rules related to juvenile offenders, highlighting skills required for judges conducting such cases. At a one-day training on the endangerment of a minor, related case

law will be among the topics, and the training will focus on matters related to the victims of the acts, involving psychologists, medical experts and family protection experts.

At the central training of the **Hungarian Bar Association** and the **Hungarian Prosecutor Training Centre**, the topics of child and youth protection were discussed on several occasions in the year 2012, and the special rules applicable to minors and juveniles were outlined.

Point 39 f

In addition to differentiation set forth by legislation, in law enforcement institutions for juveniles and in reformatory institutions various groups - within particular enforcement degrees - are formed only for education purposes. (Psycho-social, more lenient regime, basic regime and more severe regime.) **There are no such groups which could give rise to the possibility of discrimination.** Each group, programme and education is attended by detainees who meet the statutory conditions and have suitable skills; there are no other selection criteria. Each institution is equipped with a library, club rooms, gym and computer room. These premises can be used by the detainee community according to set rules (according to weekly programmes and daily routine).

Each law enforcement institution for juveniles offers the possibility for detainees to **use spiritual guidance and freely exercise their religion.**