



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Combined twenty-sixth and twenty-seventh
periodic reports submitted by Hungary under
article 9 of the Convention, due in 2022** ****

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** The annexes to the present report may be accessed from the web page of the Committee.



I. General information

1. According to Article I. Paragraph (1) of the Fundamental Law,¹ [t]he inviolable and inalienable fundamental rights of MAN must be respected. It shall be the primary obligation of the State to protect these rights”. Furthermore, Article Q of the Fundamental Law stipulates that Hungary shall accept the generally recognised rules of international law. Other sources of international law shall become part of the Hungarian legal system by promulgation into domestic legal regulations. The promulgated international treaties (e.g. human rights obligations) are part of the national law and directly applicable by the Hungarian courts. Each law or regulation is examined before adoption or modification thereof to ensure their conformity with the human rights obligations both under the Fundamental Law and under international law.² The independent judiciary, the Constitutional Court and the Commissioner for Fundamental Rights play a crucial role in safeguarding the proper implementation of human rights and rule of law.

2. The Hungarian constitutional system ensures the respect for human rights even under special legal order (e.g. during the state of danger, which had to be declared due to the COVID-19 pandemic).³ Article 54 Paragraph (1) of the Fundamental Law adds further guarantees to the protection of human rights under special legal order by listing those rights, which cannot be subject to further limitations even under special legal order. Paragraph (2) of Article 54 of the Fundamental Law adds that under a special legal order, the application of the Fundamental Law may not be suspended, and the operation of the Constitutional Court may not be restricted. The functioning of the Constitutional Court has been continuous during the state of danger and provided an independent and adequate constitutional review of legal provisions (as under normal conditions); special procedural rules facilitated its activities. Unlike some EU Member States, Hungary has not introduced any derogation under Article 15 of the European Convention on Human Rights, thus maintaining a high level of protection for human rights.

3. According to Article XV Paragraph (2) of the Fundamental Law, Hungary guarantees fundamental rights to everyone without discrimination and in particular without discrimination on the grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status. As the primary source of law in the Hungarian legal system, the provisions of the Fundamental Law are to be applied and respected in all areas of life and branches of law.

4. Act CXXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (hereinafter: the Equal Treatment Act)⁴ states in its Section 1 that all persons on the territory of Hungary must be treated with the same respect, according to the provisions of the Equal Treatment Act. Any difference of treatment based on sex, race, colour, ethnicity or belonging to an ethnicity, language, disability, health status, religious or other conviction, political or other opinion, family status, parenthood (pregnancy), sexual orientation, gender identity, age, social status, financial situation, the fact of having a part-time or fixed-term work contract, belonging to an organisation whose aim is to protect certain interests or any other situation, attribution or characteristic resulting in a less favourable treatment of these persons is to be considered direct discrimination and is prohibited by law.

5. The Equal Treatment Act is a general law on anti-discrimination rendering already existing rules comprehensive. It is in line with relevant international norms and contains consistent, comprehensive and detailed anti-discrimination provisions. In addition to the general provisions the law provides for the enforcement of equal treatment in specific areas and prohibits both direct and indirect discrimination, as well as harassment, segregation and

¹ https://njt.hu/translation/TheFundamentalLawofHungary_20220525_FIN.PDF.

² Act CXXX of 2010 on law-making stipulates that “when making laws, it shall be ensured that laws a) comply with the requirements of form and content arising from the Fundamental Law, b) fit into the unity of the legal system, c) comply with obligations arising from international law and the law of the European Union, and d) comply with the professional requirements of law-making.”
http://www.njt.hu/translated/doc/J2010T0130P_20200101_FIN.PDF.

³ The Tenth Amendment to the Fundamental Law is not included in the current Report.

⁴ https://njt.hu/translation/J2003T0125P_20210301_FIN.PDF.

victimisation. The Act CXXV of 2003 lists the protected characteristics on the basis of which differentiation qualifies as discrimination under the law. However, the list in the law is not exhaustive, as the last place in the line is “other situation, property or characteristic” [Act CXXV of 2003 8. § (t)], which can be assessed as good practice. It should be emphasized that the adequacy of the scope of protected properties is well demonstrated by the fact that this section of the Act has not been amended since 2011, so that the open list of protected properties adequately reflects the characteristics of the most vulnerable individuals or groups.

6. The full enjoyment of all human rights, including the right to equal treatment and the principle of non-discrimination, by every member of the Hungarian society is ensured by the Fundamental Law of Hungary and detailed provisions incorporated into numerous legislative acts, including cardinal acts designed to fully implement the Fundamental Law.

7. In the following these safeguards and the practical measures accompanying them will be introduced with particular attention to the Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary, [CERD/C/HUN/CO/18-25](#) (hereinafter: Concluding observations).

Composition of the population, statistics

8. Article XXIX Paragraph (1) of the Fundamental Law stresses that “[n]ationalities living in Hungary are constituent parts of the State”, in accordance with which these nationalities “shall have the right to use their mother tongue, to use names in their own languages individually and collectively, to nurture their own cultures, and to receive education in their mother tongues.” With this provision, Hungary guarantees a high level of protection for national minorities.

9. According to Paragraph (3) of the same Article “[t]he detailed provisions relating to the rights of nationalities and ethnic groups living in Hungary, the nationalities and conditions for the recognition of nationalities, and the rules for the election of their local and national self-governments shall be laid down in a cardinal act.” This provision includes further guarantees for the rights of minorities, as the detailed provisions relating to their rights shall be laid down in an act, which may be passed or amended subject to two-thirds majority of the Members of Parliament present. Act CLXXIX of 2011 on the Rights of Nationalities (hereinafter: Nationality Act) clarifies and broadens the individual and collective rights of persons belonging to one of the thirteen indigenous nationalities living in Hungary — the Bulgarians, Gypsies, Greeks, Croatians, Poles, Germans, Armenians, Romanians, Rusyns/Ruthenians, Serbians, Slovaks, Slovenians and Ukrainians. These provisions are included in the Nationality Act.

10. It should be emphasized that the Venice Commission has confirmed that, in overall terms, this act is consistent with international standards. “Act CLXXIX of 2011 on the Rights of Nationalities, adopted by the Hungarian Parliament on 19 December 2011 as part of the process of implementation of the new Constitution, confirms Hungary’s internationally recognised commitment to minority protection, based on the applicable international standards and the particular circumstances prevailing in the country. (...) These features are positive and should be welcomed.”⁵

11. Several sectoral acts provide the protection of nationality rights. The electoral law provides for preferential mandates for nationalities, unprecedented in Hungarian history. In order to obtain a preferential parliamentary mandate, nationalities’ candidates need one quarter of the number of votes required for a mandate from majority party lists. Should a nationality fail to achieve this number, they may delegate a nationality advocate (“spokesperson”) to Parliament. The new system was applied for the first time during the elections in April 2014. Both during the 2018 and 2022 elections one nationality

⁵ Venice Commission, Opinion on the Act on the Rights of Nationalities of Hungary, Strasbourg, 19 June 2012 Opinion no. 671/2012 CDL-AD(2012)011
[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)011-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)011-e).

representative was elected taking the preferential rules into account, while the other nationalities are represented by nationality advocates in the National Assembly.

12. As regards the detailed data on the composition of the population the census – to be carried out during the second half of 2022 – will provide up-to-date information. (The census scheduled to 2021 had to be postponed due to the COVID-19 pandemic). Act CI of 2018⁶ and Government Decree 362/2020⁷ contain all the relevant information on the census including the data requirements. Questions will be asked, among others on ethnicity, nationality, language knowledge, level of education and jobs.

13. For further statistics see also attachments No. 1.

National human rights institution, enforcement of the anti-discrimination legal framework

14. In relation to the institutional framework for the protection of human rights, including the right to equal treatment and the prohibition of discrimination, the following shall be emphasized.

15. The basic rules concerning the functioning of the Constitutional Court are set in the Fundamental Law and the main regulations on the structure and procedure are determined by Act CLI of 2011 on the Constitutional Court (hereinafter: CC Act). Being a cardinal act, the CC Act provides the necessary guarantees for the activity of the Constitutional Court. The basic competences of the Constitutional Court have remained unchanged. The Constitutional Court examines the conformity of the provisions of adopted but not yet promulgated Acts with the Fundamental Law based on the motion of the Parliament or the President of the Republic. At the initiative of the Government, one quarter of the Members of the Parliament, the President of the Curia, the Prosecutor General or the Commissioner for Fundamental Rights the Constitutional Court reviews the conformity with the Fundamental Law of any law [ex post review, posterior norm control] and examines any law for conflict with any international treaty. The Constitutional Court reviews, at the initiative of a judge, the conformity with the Fundamental Law of any law applicable in a particular case. The Constitutional Court is mandated to undertake the protection of the fundamental rights of individuals based on constitutional complaints as well.

16. Act CXXVII of 2019 clarified the provisions on the exercise of the right to lodge a constitutional complaint. Taking into account the fact that the members of the Constitutional Court practice *de facto* judicial activity, Act CXXVII of 2019 allowed them to use their experience at the ordinary courts as a judge after the end of their terms of office. With regards to the COVID-19 pandemic, the CC Act was amended with sections 48/A. § and 68/A. §, according to which the meetings of the Constitutional Court may also be held by electronic means, based on the decision of the President (48/A. §). The new Section 68/A of the same Act stipulates that at a time of special legal order a.) the President and the Secretary-General shall ensure the continuous functioning of the Constitutional Court and shall take the necessary organisational, operative, administrative and decision-preparing measures and b.) the President may authorize a derogation from the rules of procedure of the Constitutional Court.

17. This way, the Fundamental Law and the cardinal laws ensure the democratic legitimacy and independence of the Constitutional Court in conformity with the principle of rule of law and thus contribute to an efficient protection of all human rights.

18. As far as the institution of the Commissioner for Fundamental Rights is concerned, it shall be mentioned that Act CXXVII of 2020 integrated the Equal Treatment Authority (EBH) to the Office of the Commissioner for Fundamental Rights.

19. The Commissioner for Fundamental Rights is an independent constitutional organ. According to the Fundamental Law, the Commissioner for Fundamental Rights shall perform fundamental rights protection activities; his or her procedures may be initiated by anyone.

⁶ <https://njt.hu/jogszabaly/2018-101-00-00>.

⁷ <https://njt.hu/jogszabaly/2020-362-20-22>.

The Act on the Commissioner also stipulates that in conducting his/her proceedings, the Commissioner for Fundamental Rights shall be independent, subordinated only to Acts, and may not be given instructions regarding his/her activities. Therefore, the executive power does not have any influence on how the Commissioner performs its activities. The Parliament shall elect the Commissioner for Fundamental Rights from among those lawyers who have outstanding theoretical knowledge or at least ten years of professional experience, have reached the age of thirty-five years and have considerable experience in conducting or supervising proceedings concerning fundamental rights or in the scientific theory of such proceedings. The Commissioner and his or her deputies are elected by the Parliament for a period of six years with the votes of two-thirds of all Members of Parliament. (They may be re-elected once.) Neither the Commissioner nor the Deputies may be members of a political party and they may not engage in political activities. (Thus, despite of certain concerns as regards the functioning of the institution in practice, the legal norms in force on the Commissioner ensure the independence of the institution in compliance with the Paris Principles).

20. Through the integration of the EBH a higher level of protection is ensured for the right and principle of equal treatment, due to the fact that cases of violations of equal treatment are now heard by an institution that is primarily concerned with the protection of fundamental rights. The Commissioner for Fundamental Rights, unlike EBH, is a constitutional institution. It is guaranteed at the constitutional level that the Commissioner's proceedings may be requested by anyone and that the Commissioner shall report annually to the Parliament on his or her activities. In the latter mentioned annual report the Commissioner gives information on his or her fundamental rights protection activities, on the reception and outcomes of his or her initiatives and recommendations, and evaluates the situation of fundamental rights on the basis of statistics compiled on the infringements related to fundamental rights. The Commissioner may also initiate ex-post norm control before the Constitutional Court.

21. The tasks of the EBH have been taken over by the Office of the Commissioner for Fundamental Rights with full powers. In the performance of its duties specified in the Act on Equal Treatment, the Office of the Commissioner for Fundamental Rights acts as an administrative authority.

22. The traditional powers of the ombudsperson include – among others – the following: If, on the basis of an inquiry conducted, the Commissioner comes to the conclusion that the impropriety in relation to a fundamental right does exist, in order to redress it he or she may – by simultaneously informing the authority subject to inquiry – address a recommendation to the supervisory organ of the authority subject to inquiry. In order to redress the uncovered impropriety related to a fundamental right, the Commissioner may initiate proceedings for the supervision of legality by the competent prosecutor through the Prosecutor General. If the impropriety noticed by the Commissioner is related to the protection of personal data, he or she shall report it to the Data Protection Authority. If he or she considers that there is a well-founded suspicion that a crime has been committed, he or she shall initiate criminal proceedings with the organ authorised to start such proceedings. If the impropriety can be lead back to the deficiencies of a legal norm, he can turn to the Constitutional Court (or in case of decrees of local self-governments to the Curia). These react rather to an abstract problem of legal nature.

23. The administrative proceedings conducted under the equal treatment act and the possible sanctions (e.g. may order the unlawful situation to be ended, may prohibit the unlawful conduct for the future) ensure a more specific solution in a concrete case.

24. The merger of the two institutions did not change the nature of the two procedural options; the applicant has both ways at its disposal in order to enforce his/her rights.

25. Section 39/M Paragraph (2) of the Act on the Commissioner for Fundamental Rights stipulates that if, based on the petition, the proceedings can be initiated under both acts, proceedings shall be initiated according to the statement from the petitioner. If, on the basis of the petitioner's statement, the petitioner requests proceedings to be initiated under the Equal Treatment Act, the petition shall be regarded as an application made under that act. If the petitioner does not make a statement or requests the initiation of both proceedings, the Commissioner for Fundamental Rights shall initiate proceedings under the Equal Treatment

Act and shall notify the petitioner thereof within 10 days, in which case the petition shall be regarded as an application made under the Equal Treatment Act. If, in a case relating to the enforcement of the rights of the nationalities living in Hungary, the petitioner does not make a statement, or requests the initiation of both proceedings, the Commissioner for Fundamental Rights shall make a decision based on the proposal of the Deputy Commissioner for Fundamental Rights responsible for the protection of the rights of the nationalities living in Hungary as to whether initiating proceedings under the Act on the Commissioner for Fundamental Rights or the Equal Treatment Act shall be considered justified. An administrative decision made in the proceedings under the Equal Treatment Act may not be reviewed by the Commissioner for Fundamental Rights on the basis of Act on the Commissioner for Fundamental Rights. The proceedings conducted under the Act on the Commissioner for Fundamental Rights shall not preclude that, after their conclusion, the Commissioner for Fundamental Rights, upon request or ex officio, launch a proceeding in the same case under the provisions of Equal Treatment Act.

26. The performance of the tasks of the Commissioner for Fundamental Rights specified in Equal Treatment Act shall be carried out by a separate organisational unit of the Office designated for this purpose (Directorate-General for Equal Treatment).

27. The new model is in line with the provisions of Article 13 of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Moreover, it provides for more extensive powers than foreseen in the EU legislation. In several other EU Member States the tasks of the equal treatment authority are carried out by the ombudsman. The Hungarian equality body has wider competences than the Directive stipulates: it acts as an authority and has the power to adopt binding decisions and issue sanctions. Only 8 EU Member States and only 11 out of 49 members of Equinet (European Network of Equality Bodies) have similarly strong competences.

28. With the integration of the tasks of EBH, the Office of the Commissioner for Fundamental Rights has the widest ever mandate for investigation and for taking measures to protect fundamental rights, and especially for promoting the principle of equal treatment.

29. Besides the complaint mechanism of the Office of the Commissioner for Fundamental Rights, victims of racial discrimination who might avail themselves of the remedies, provided by law might resort to the help of the state victim support system. Amongst others, the aforementioned system provides assistance in assertion of the victims' interests. The main profile of the system is to help victims of crime by means of various personalized forms of support, focussing on the needs of victims.

30. The different types of services are available to everyone – regardless of means – including victims of hate crimes. The type of service to be provided is determined by the nature of the crime, the impact of the crime on the victim, and the victim's personal circumstances. These circumstances and the needs of the victim are assessed by the victim support service and the service offered is adapted accordingly, so that personalized assistance is available. Due to the nature of "hate crimes", in such cases the staff of the victim support service pays special attention to the helpful conversation with the person who turns to them during the administration.

31. Forms of assistance provided by Act CXXXV of 2005 on Assistance to Victims of Crime and State Compensation (Victim Support Act):

- (a) assertion of interest:
 - (aa) information;
 - (ab) legal advice;
 - (ac) emotional support; and
 - (ad) other assistance;
- (b) immediate financial assistance;
- (c) certification of victim status;

- (d) witness assistance;
- (e) protected shelter, and state compensation support.

32. The Ministry of Justice has recently significantly improved the accessibility of financial assistance (immediate financial assistance, state compensation) by amending the relevant provisions of Victim Support Act (extending the time limits for claiming, abolishing the means test, etc.) and has made the assertion of interest service more widely available (opening new Victim Support Centres across the country). The regional victim support services in the capital and county government offices are entitled to make decisions on assistance requiring an official procedure (immediate financial assistance, certification of victim status and state compensation), while the so-called soft services – which are available regardless of reporting the crime – are provided by the Victim Support Centres to a high standard for all victims.

33. It is important to note, that the Victim Support Line (06-80-225-225) is also available for victims, as a free-of-charge helpline, run by the Ministry of Justice, operating 24/7. The staff informs all victims on the available options and the procedures, inform victims of crime regarding their rights, their opportunities and they can refer cases to other organisations too, especially to victim support services.

Complaints of racial discrimination

34. Detailed statistical data and comprehensive information on the activities of the Commissioner are available in the annual reports of the Commissioner and his Deputies. According to the Act CXI of 2011 on the Commissioner for Fundamental Rights, the Commissioner for Fundamental Rights is obliged to report on his activities to the Hungarian National Assembly every year. Pursuant to Section 40 of the Act, the Commissioner for Fundamental Rights submits the annual report to the National Assembly by 31 March of the year following the year in question. The National Assembly discusses the report in the year of its submission. The report of the Commissioner for Fundamental Rights shall be published on the website of the Office after the decision of the National Assembly.

35. The 2021 annual report⁸ contains, besides detailed statistics, also the description of specific cases and concrete findings. In 2021, the Directorate-General for Equal Treatment dealt with a total of 462 cases. Of these, 265 were administrative cases, including, inter alia, official cases carried over from previous years, cases under judicial review and enforcement phase matters. In addition, there were 197 non-administrative cases in which the Commissioner informed the client through the Directorate-General clients about the possibilities of enforcing his/her rights. In 2021, 169 cases were closed with a decision by the Directorate-General: 76 applications were rejected or proceedings were terminated; 85 decisions were made on the merits of the case, and 8 settlements have been approved by decision. As regards the decisions on the merits of the case, in 59 cases the petition was dismissed, in 26 infringements were found. As a sanction, fines were imposed in 5 cases.

36. Between 2013 and 2021, the Deputy Commissioner for the Rights of National Minorities examined 3,163 complaints, while the annual number of cases increased to two and a half times which is a significant change and clearly indicates that the institution of the Deputy Commissioner for the Rights of National Minorities is becoming better known and accepted for members and representatives of national minorities.

37. The Commissioner and his Deputies are especially active as regards the current challenges, Europe and the world is facing. E.g. the Deputy Commissioner for the Rights of National Minorities examined the situation of Roma people fleeing from Ukraine, the services and challenges they face. The Office of the Commissioner for Fundamental Rights opened information points in order to provide direct help especially administrative assistance and legal counselling to the refugees fleeing the war in Ukraine, and to assist in the humanitarian relief efforts. During the COVID-19 pandemic, the Commissioner and his Deputies issued a joint statement on the issues affecting the vulnerable groups, with special

⁸ <https://www.parlament.hu/irom42/00016/00016.pdf>.

regard to the Roma population in the context of the coronavirus pandemic. The Deputy Commissioner for the Rights of Future Generations⁹ carries out intensive field activities and awareness-raising work.

38. These data – and the activities of the Commissioner as well as his Deputies – confirm their strong commitment to prevent all forms of discrimination and efficiently enforce the prohibition of discrimination.

Racist hate crimes

39. With regard to combating racist hate crimes, the legal framework for prevention and sanctioning, should first and foremost be elaborated on. Under the Hungarian Criminal Code [Act C of 2012 on the Criminal Code (hereinafter: CC)¹⁰], the following crimes are considered as non-violent biased criminal offences: use of symbols of despotism, incitement against a community and public denial of crimes committed by the National Socialist and Communist Regimes.

40. The symbols listed under the criminal offence of use of symbols of despotism are connected to certain ideas and events that required the seizure of power and the totalitarian maintenance thereof and seeing such symbols can result in fear or painful memories in certain groups of the population. The CC gives a closed list of these symbols, which includes the swastika, the SS badge, the arrow-cross, the hammer and sickle, and the five-pointed red star. The crime can be committed by using objects in which these symbols are physically manifested or even emblems or objects that depict these symbols. The criminalized behaviours are the distribution, use of such symbols in front of a great publicity, or their public display. However, these acts are only punishable, if, taking into consideration every aspect of the case, it is objectively capable of causing disturbance in public peace. This condition was necessary in order to meet the requirements set by the European Court of Human Rights and the Hungarian Constitutional Court.

41. The criminal offence of incitement against a community regulates an endangering act, thus in order to establish this criminal offence it is not necessary to actually cause or manifest violence or hatred in others, it is enough if there is a danger that this can occur. If the perpetrator is aware of the fact that their action committed in public is objectively capable of causing hate, the criminal offence can be established. However, this criminal offence can only be committed intentionally, but it is enough if the perpetrator only knows that their action committed in public targets certain protected groups of the population, is suitable to cause hate or violence and the aim of their behaviour is to cause hate or violence or they can anticipate that hate or violence can take place.

42. The CC names not only the national, ethnic, racial or religious groups but it namely mentions among the other certain groups of population, but it expressis verbis mentions as examples among the other certain groups of population sexual orientation, sexual identity and disability as grounds for grouping in order to ensure compliance with international standards regarding the crimes of violence against a member of the community and incitement against a community. According to the Hungarian legal traditions, groups defined according to “(skin)colour” and “descent” belong under the specifications of national, ethnic and racial groups, and fall under the protection of the CC. This means that “(skin)colour” and “descent” does not belong to category of certain groups of the population. The term “national group” as written in the criminal offence of incitement against a community covers actually the national descent and not citizenship.

43. During the EU Pilot procedure (8186/2015/JUST) the European Commission found that the Hungarian criminal regulation is not in line with Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law regarding its Article 1 (1) a), due to this fact the Government decided to amend the relevant criminal provision to guarantee the compliance with the Framework Decision. Thus, the criminal offence of incitement against a community

⁹ <https://njt.hu/jogszabaly/2020-362-20-22>.

¹⁰ https://njt.hu/translation/J2012T0100P_20220401_FIN.pdf.

was amended in two aspects, firstly, it now contains *expressis verbis* that both incitement to hatred and incitement to violence are punishable. This amendment aims to solve the concerns of the Commission saying that “despite the use of the term »hatred« in Section 332 of the Criminal Code, it is only the incitement to »violence« which is actually penalized”. Now the criminal offence specifically distinguishes the two, rendering incitement to both criminally punishable.

44. Secondly, the Commission had concerns about the fact that the criminal provision did not mention members of the community as possible victims of this crime, however, according to the original provisions, if someone committed the conduct against a specific person in the interest of creating hostility against his/her group, the crime of incitement against a community could have been established. Nonetheless, for clarification, the criminal offence now *expressis verbis* includes members of the given community as targets of this crime. The amendments were introduced by Act CIII of 2016 on the amendments of acts on international and European Union legal assistance in criminal matters and other certain criminal acts for legislative harmonisation that was adopted by the Parliament on 11 October 2016. The amendments took effect on 28 October 2016.

45. It must be highlighted regarding public denial of the crimes committed by the National Socialist and Communist regimes that the Constitutional Court established, that the denial of crimes of national socialist and communist regimes constitutes an abuse of freedom of expression and opinion, and such denying statements are in contradiction with the general opinion of the society and violate the human dignity of victims as well as the sense of justice to an extent that they are capable of causing such an anger by awaking public indignation and shocking others that they might result in serious public disturbance. Taking into consideration international requirements, it is punishable to deny, question, dismiss as insignificant or ‘attempt to justify’ such crimes.

46. The CC renders criminally punishable other, violent racist and biased behaviours, thus the criminal offence of violence against a member of a community. In case of violence against a member of a community the acts of perpetration (displaying a conspicuously anti-social conduct, assault, coercion) should be displayed because of another person’s being a member or a presumed member of a certain community. However, it is not a required to display the conspicuously anti-social conduct against a certain person, it is enough, if it is displayed against an object (e.g. a car parking on the street) because a racist motive defined in Section 216. Conspicuously anti-social conduct means a behaviour that openly ignores the basic rules of social coexistence. Furthermore, the conspicuously anti-social conduct must be capable of causing alarm, but it is not necessary that an actual panic to break out. It is not necessary to actually cause or manifest violence or hatred in others, it is enough if there is a danger that this can take place. If the perpetrator is aware of the fact that their action committed in public is objectively capable of causing hate, the criminal offence can be established.¹¹

47. In order to ensure uniform and effective law enforcement measures aimed at preventing and countering hate crimes, the National Police Headquarters issued in 2019 an order to regulate the implementation of hate crime related tasks belonging to the competence of the Hungarian police [30/2019. (VII. 18) ORFK order].

48. The criminal investigation relies on prejudice indicators collected in line with the aforementioned order. This collection of indicators consists of facts and circumstances from which it can be concluded that a crime was committed in whole or at least in part with a bias motivation. Indicators are also helpful when planning investigative measures, because if there is a suspicion of a bias motivation, all indicators must be identified, documented and included in the motion of indictment, thus facilitating the work of the prosecutor’s office and of the court to prove the bias motivation. Indicators may become indirect evidence at a later stage, and full disclosure of all evidence is a legal obligation.

49. On the basis of the same order, police officers are obliged to consider the possible presence of the offender’s bias motivation in all criminal offences. In the event of suspicion of hate-motivated incidents, police officers are obliged to take or initiate the necessary

¹¹ Please find the relevant, detailed statistical data in Annex 2.

measures as a matter of urgency in order to neutralise a potentially dangerous situation or to prevent the commission of bias crimes.

50. The definition of hate crime used by the police is as follows: offences under the Criminal Code include violations of freedom of conscience and religion, violence against a member of a community, incitement against a community, public denial of the crimes of national socialist or communist regimes, defamation of national symbols, and use of symbols of despotism. Furthermore, any crime against a person or property where the choice of the victim, the location or of the object is motivated by the victim's perceived or actual membership to a particular group. This may be based on several characteristics shared by members of a group, such as perceived or real racial, national or ethnic origin, language, skin colour, religion, sex, gender identity, age, mental or physical disability, sexual orientation or other similar characteristics.

51. While – as it can be seen from the above – the scope of hate crimes as applied by the police is quite wide, judicial authorities (and academia as well) tend to use a narrower definition where under hate crimes the following offences are understood: violence against a member of a community, incitement against a community, public denial of the crimes of national socialist and communist regimes and the use of symbols of despotism.

52. The rules of hate crimes related statistical data collection by the police were amended on 1 July 2018, as two new boxes were added to the questionnaire: firstly, whether the offence constitutes a hate crime (yes or no), and secondly, if the previous answer is yes, a question concerning the protected feature (e.g. race, nationality, ethnicity, religion, sexual orientation, gender identity, disability, etc.).

53. For obvious reasons, these questions might only be answered when the perpetrator is known to the authorities.

54. These additional questions must be answered in case of the following offences:

(a) Hate-motivated crimes including violation of the freedom of conscience and religion (Section 215 of CC), violence against a member of a community (Section 216 CC), incitement against a community (Section 332 CC), public denial of the crimes of national socialist and communist regimes (Section 333 CC);

(b) Qualifying offences related to membership of a community: homicide [Section 160(1)(c) CC], causing bodily harm [Section 164(4)(a) and (6)(a) CC], violation of personal freedom [Section 194(2)(b) CC], defamation [Section 226(2)(a) CC], unlawful detention [Section 304(2)(a) CC], insulting a subordinate [Section 449(2)(a) CC];

(c) In addition to the offences referred to under points a) and b), offences committed with a harmful intention against a community, i.e. where the specificities of the case clearly indicate that the motivation behind the crime was hatred. [E.g. defamation of national symbols (Section 334 CC), vandalism (Section 371 CC), or harassment (Section 222 CC)];

(d) If the first question (whether the offence qualifies as a hate crime) can be answered with yes, the second one (on the nature of the hate crime) shall be answered by choosing one from the protected groups or features below:

- national group;
- ethnic group;
- racial group;
- religious group;
- disability;
- gender;
- sexual orientation;
- other perceived or actual membership to a group or other feature.

<i>Number of hate-motivated crimes registered in police procedures by type of the criminal offence and of the target of the hatred based on the Unified Police and Prosecution Crime Statistics 2019–2021</i>	<i>Year 2019</i>	<i>Year 2020</i>	<i>Year 2021</i>
Offence motivated by the victim's perceived or real belonging to an ethnic group	11	3	11
Public denial of the crimes of national socialist or communist regimes	0	1	0
Nuisance	2	0	1
Violence against a member of the community	5	2	8
Misuse of firearms or ammunition	0	0	1
Robbery	4	0	0
Causing bodily harm	0	0	1
Offence motivated by the victim's perceived or real belonging to a racial group	5	0	6
Violence against a member of the community	2	0	4
Causing bodily harm	1	0	1
Harassment	2	0	1
Offence motivated by the victim's disability	4	1	0
Violence against a person performing public duties	1	0	0
Vandalism	1	0	0
Causing bodily harm	2	0	0
Harassment	0	1	0
Offence motivated by the victim's perceived or real belonging to other groups of the population	5	4	13
Nuisance	2	0	1
Violence against a person performing public duties	0	0	1
Incitement against a community	0	1	3
Violence against a member of the community	0	0	1
Disorderly conduct	0	1	0
Vandalism	0	1	0
Violation of personal freedom	2	0	0
Causing bodily harm	1	1	1
Harassment	0	0	6
Offence motivated by the victim's gender	2	1	0
Nuisance	0	1	0
Violence against a member of the community	2	0	0
Offence motivated by the victim's perceived or real belonging to a national group	8	0	3
Nuisance	2	0	0
Violence against a member of the community	5	0	1
Causing bodily harm	1	0	2
Offence motivated by the victim's sexual orientation	2	0	6
Violence against a member of the community	1	0	5
Causing bodily harm	1	0	1

<i>Number of hate-motivated crimes registered in police procedures by type of the criminal offence and of the target of the hatred based on the Unified Police and Prosecution Crime Statistics 2019–2021</i>	<i>Year 2019</i>	<i>Year 2020</i>	<i>Year 2021</i>
Offence motivated by the victim's perceived or real belonging to a religious group	0	1	0
Violence against a member of the community	0	1	0
In total:	37	10	3 939

Data is based on the Unified Police and Prosecution Crime Statistics accessible at <https://enyubs.bm.hu> and operated by the Ministry of the Interior.

55. The case law of Hungarian courts is in line with the guidelines of the Handbook designed in April 2019 to enhance preparation for the investigation and trial of hate crimes, no sharp changes can be observed since then.

56. In support of the above, without wishing to be exhaustive, a few anonymous cases – provided by the National Office for the Judiciary – are presented as follows:

1. *The court found the accused guilty of attempting a crime of violence against a member of the community and a crime of violence against a member of the community, for which he was sentenced to 2 years with a 4-years' probation period and a fine of HUF 150,000.*

57. According to the facts of the case, the accused left for his home on February 22, 2019, by bus departing from town XX to town XY. The 17-year-old victim No. 1 and the 15-year-old victim No. 2 were already in the bus, seated in the back rows. Victim No. 1 was playing with his tablet, the other victim was listening to music.

58. The bus was in the vicinity of town KK when the No. 1 victim made a selfie with the tablet. The accused, who was traveling behind him, noticed this and announced in an irritated voice to the victim that he would report this to the police and further, he shouted that he will "shoot the gypsy bastard" if he was photographed. The accused also took out his unauthorized gas- and alarm weapon, which was kept in the gun box with the ammunition, and took it between the two seats to the victim. In victim No. 1, this threat sparked fear, and while the defendant was holding the gun in his hand, Victim No. 1 tried to prove that he had not taken pictures of the accused, showing him the photographs taken with the tablet. Victim No. 2 also noticed this conflict, and victim No. 1 showed him too that he only took photos of himself, in which the accused is not even visible. The accused then took out the gun again, demanding the deletion of the pictures again, then grabbed the gun at the minor victims and announced that "I would shoot you, stinking gypsies". Victim No. 1 did not comply with the defendant's claim because he did not take photographs of him, however, the conduct of the defendant provoked fear in him and in victim No. 2, so they continued their journey home in the front seats of the bus.

2. *The court found the defendants No. 1 and 2 for the crime of violence against a member of the community committed as accomplices guilty and a sentence of 1 year with 1 year probation period was imposed per person.*

59. According to the facts of the case, the victim No. 1 and his friend were swimming and sunbathing in the XX swimming pool on August 12, 2018. Defendants No. 1 and 2 also swam in the pool. Defendant No. 2 noticed the victim of Indian descent and began to scold loudly with the phrase "go back to your country". The victim and his friend returned to the pool area at 6:34 p.m., when defendant No. 1 shouted in the pool at the victim as follows: "why don't you go back to your own country?" In the pool, defendant No. 2 again scolded the victim: "You jerk, you Chinese monkey, why don't you go back to your own country?". At this point, the victim and his friend retorted to the defendant to the extent that "this is our country, too." After a few minutes, defendants No. 1 and 2 went out of the pool, approached the victim and started arguing again, both defendants shouting, "why did you come to our country." During the conflict, the both defendants hit the victim's head, who suffered an injury that healed within 8 days.

3. *The court sentenced the accused to 1 year and 6 months imprisonment suspended for 2 years for the crime of incitement against a community.*

60. According to the facts of the case, the defendant had previously applied to the Hungarian Police for a job, but was rejected. In 2000, the defendant was employed part-time as a security guard and as a consequence of the COVID pandemic, had a rather difficult financial situation. In order to supplement his income, he was engaged in the sale of fruit and flowers produced by his mother, who was registered as a primary producer, the defendant however did not have any permits or licenses. As a result, he was the subject of police action in several cases. As a result, he developed a strong resentment and anger towards the members of the armed corps.

61. On August 19, 2020, the defendant posted two public posts on Facebook with the following content:

“What kind of Hungary do we live in? Is it serious now that a stinking gypsy can be a policeman? GOOD LORD! It is a shame what is happening here and the future will be even worse. Fucking gay cops. What kind of Hungary do we live in, where even a police officer is a gypsy? That’s one thing. The other is, be sure, you gay cops, we will soon cut your throat. Foreign immigrants will arrive, the situation will be the same as in Germany or France.”

62. In addition to the above, on September 3, 2020, he also shared:

“I would like to send a message to extremist groups. Train suicide bombers. Because if there’s a problem with the gay cops, blow them up. Allah forgives you. Only pure-blooded Hungarians can live here in Hungary.”

63. The posts referred to went beyond the scope of freedom of expression and were capable of inciting tensions against the social groups identified in them and of inciting active, action-oriented hatred.

64. The text published by the defendant is clearly seen as an emotional preparation for violence against members of the police. Hate also entails the development of a realistic possibility of specific harm of a violent nature. The accused was aware that the hatred he inflicted on others could lead to extreme activity, ultimately to violence.

4. *The court imposed a fine of HUF 300,000 on the defendant for the crime of violence against a member of the community.*

65. According to the facts of the case, the German defendant, who had strong prejudices against migration and immigrants, moved from Germany to Hungary and established a permanent residence here.

66. At the time of the indictment, the victim, who was a Pakistani citizen and his family was living in the town of XX, were several of his friends of Pakistani descent were living as well.

67. At around 10 pm on 25 December 2019, the defendant, expressing his disapproval of migration, placed slaughtered, raw pig heads on the fence of the home of the Pakistani victim and his family, as well as on the windshield of their car, to intimidate them. The defendant’s behavior led to fear within the community of people of Pakistani descent.

5. *The court found the defendant guilty of using symbols of despotism, for which he was released on probation for 1 year.*

68. According to the facts of the case, on 8 August 2020, the defendant as a seller at a marketplace, placed 17 badges depicting the swastika and 2 SS badges on the side of his table closer to potential customers. The witness of the case looked around at the market hall when he spotted the swastika and SS badge offered for sale, and – given that there were people in his family who had fallen victim to the dictatorship – he informed the police officer serving on the spot of the badges depicting forbidden symbols. The police officer took the necessary measures against the defendant by seizing all badges.

69. With regard to the training and education of police personnel, it should be pointed out that order Nr. 27/2011 (XII. 30.) on police action in multicultural environments foresees that for a conflict-free coexistence of local communities, police commanders shall keep the personnel constantly informed on how to effectively deal with conflict situations by which members of minority social groups are involved or affected.

70. Sensitization trainings for commanders are regularly organized by the Hungarian Police Directorate-General. For locally cooperating partners, the Directorate-General has issued a reader titled “Policy measures in connection with hate or prejudice-motivated incidents” to effectively address emerging or already existing hate incidents.

71. In November 2020, an information brochure “Let’s Do Against It Together” has been published to provide assistance and advice for victims of hate crimes. The brochure was published in February 2021 in 22,000 copies.

72. The collection of prejudice indicators to help detect hate crimes including explanations and examples, is available to all police stations as a guiding tool.

73. The training program “Anti-Semitism and Hate Crimes” is provided by the Ministry of the Interior as part of its Training system, the participation at the program is mandatory for professional members of the police, until 11 April 2022, 15 043 professional staff members completed the training.

74. In the public security police patrol training, course materials include the following lectures related to hate crimes:

(a) As part of the course “Society and Communication”, participants deepen their knowledge in the topic of tolerance, and in the context of the subject “Legal knowledge” lectures in human rights are given;

(b) 6 lectures are given related to hate crimes in the following topics:

1. multicultural society;
2. knowledge and skills for police staff to adequately choose the most suitable communication style in complex situations;
3. cultural differences in subcultures;
4. LGBTQ communities;
5. prejudices, discrimination;
6. the importance of zero-prejudice approach for policeman;

(c) In the subject “Criminal Law” two lectures are given on the crime of violence against a member of the community.

75. As part of the annual recurring training series, prosecutors attend lectures from practitioners dealing with hate crimes, they are presented the newest case law of Hungarian courts and of the European Court of Human Rights, they are provided with information on the recent work of the Working Group on Hate Crimes. The aim of the training series is to increase the efficiency of recognizing bias indicators.

76. The Hungarian Prosecutor’s Training Center offers lectures related to criminal law from which the lecture “Crimes against Freedom, Dignity and Certain Fundamental Rights” in connection with hate crimes is a compulsory curriculum for all trainee prosecutors. The training of deputy prosecutors also includes lectures related to hate crimes, including “The effective prosecution of hate crimes, the case law of the European Court of Human Rights and the recent work of the Working Group against hate crimes.”

77. The mandatory training of young prosecutors included the following lectures related to hate crimes:

- 1 April 2019: Investigation of hate crimes;
- 15 October 2019: Problems of law enforcement in proceeding related to hate crimes;
- 26 November 2019: Case law of Hungarian courts in hate crimes related cases;

- 26 November 2019: Hate crimes and their effective prosecution, factors hindering the successful closure of proceedings.

78. Based on mutual agreements, different NGOs also regularly give lectures to prosecutors in hate crime related topics.

79. According to order No. 30/2019. (VII. 18.) of the National Police Headquarters, a mentor shall be appointed at each police station in order to facilitate the detection of hate crimes.

80. The mentors – on the basis of the data provided by the police headquarters –, are generally responsible for the following tasks related to hate crimes:

- (a) Monitoring reports, complaints, investigation measures;
- (b) Supporting the professional gathering of evidence;
- (c) Coordinating the cooperation between criminal and law enforcement staff;
- (d) Maintaining contact with the specialized units/specialists of regional bodies;
- (e) If there is suspicion that an offence might qualify as a hate crime, or if the victim belongs to a protected group, the specialized units/specialists are notified immediately;
- (f) Fostering local knowledge and skills by providing educational and training materials;
- (g) Preparing lectures based on training materials provided by the specialized units/specialists of regional bodies;
- (h) Informing staff members of the police station of any changes of legislation related to hate crimes.

81. According to order No. 30/2019. (VII. 18.) of the National Police Headquarters, each regional police headquarter shall appoint at least one specialist (or specialized unit) for hate crimes.

82. The tasks of the specialist for hate crimes are as follows:

- (a) monitoring the decisions of the Constitutional Court and of other courts in connection with hate crimes;
- (b) monitoring the crimes committed, and if an unrecognized hate crime is detected, he/she takes immediate action to initiate the correct criminal classification of the offence;
- (c) monitoring media coverage of hate crimes;
- (d) monitoring the activities of organized hate groups and their members and taking the necessary measures if a suspected infringement is detected;
- (e) reporting all hate crimes committed to the national specialist of hate crimes;
- (f) monitoring the criminal proceedings related to hate crimes;
- (g) ensuring the availability of information brochures and learning materials on the intranet sites of the territorial body;
- (h) participating in training courses on hate crimes for the police staff.

83. The national head of hate crimes specialists:

- (a) monitors the crimes committed, and if an unrecognized hate crime is detected, takes immediate action to initiate the correct criminal classification of the offence;
- (b) monitors media coverage of hate crimes;
- (c) monitoring the activities of organized hate groups and their members and takes the necessary measures if a suspected infringement is detected;
- (d) specializes in and monitors criminal proceedings related to hate crimes;

- (e) ensures the availability of information related to hate crimes on the intranet sites of the police;
- (f) organizes professional training for the territorial specialists on an annual basis with the involvement of the law enforcement branch.

Racist hate speech

84. Prevention and sanctioning of racist hate speech is a challenge and priority offline and online alike. With regard to the prevention of spreading hate speech online, sections 336–338 of Act XC of 2017 on the Code of Criminal Procedure (hereinafter: CCP)¹² might be applied, which regulates the coercive measure of rendering electronic data temporarily inaccessible.

85. Rendering electronic data temporarily inaccessible may be ordered where a proceeding is conducted regarding a criminal offence subject to public prosecution, with regard to which rendering electronic data permanently inaccessible may be ordered, and doing so is necessary to interrupt the criminal offence. Rendering electronic data temporarily inaccessible may be ordered by a court.

86. Rendering electronic data temporarily inaccessible may be ordered in the form of:

- (a) temporarily removing the electronic data concerned, or
- (b) temporarily preventing access to the electronic data concerned.

87. The court shall immediately notify the National Media and Info-communications Authority, which monitors the implementation of the decision.

88. Pursuant to Sections 92/A and 159/B-159/C of Act C of 2003 on Electronic Communications, the National Media and Info-communication Authority organizes and monitors the enforcement of coercive measures to temporarily or permanently prevent access to electronic data ordered by the court in criminal cases. The Authority operates the Central Electronic Accessibility Decisions Database (KEHTA).

89. Pursuant to Section 338 of CCP, before issuing an order to render electronic data temporarily inaccessible, the prosecution service or the investigating authority may issue a call to a media content provider, as defined in the Act on the freedom of the press and the fundamental rules on media contents, or a hosting service provider or an intermediary service provider providing hosting services, which is capable of preventing access to the electronic data concerned, to remove electronic data voluntarily, unless doing so would harm the interests of a criminal proceeding. Compliance with such a call shall not be mandatory; such a call shall be aimed at accelerating the prevention of access to the electronic data concerned.

90. The Hungarian media law expressly prohibits publishing press and/or media content that incites to hatred. Under Act CIV of 2010 on the freedom of the press and on the fundamental rules on media content, “[m]edia content may not contain facilities for inciting hatred against peoples, nations, national, ethnic, linguistic and other minorities, or any majority or religious community”. Act CLXXXV of 2010 on Media Services and on the Mass Media authorizes the Media Council to initiate and conduct an investigation, in the event of infringement of press and media law requirements – including the prohibition of hate content – and to take appropriate measures consistent with the gravity of the infringement.

91. The above mentioned measures ensure a proper balance between the freedom of expression and the necessity for the protection of national, ethnic, racial or religious groups. In 2012, the Parliament has tightened the House Rules on hate speech by Members of the Parliament with the introduction of strict disciplinary measures and waiving of immunity in such cases.

92. The National Office for the Judiciary does not have data registered on hate crimes committed by public figures or politicians. However, during the examination of court files, by a case related to incitement against the community, it became apparent that the perpetrator

¹² https://njt.hu/translation/J2017T0090P_20220301_FIN.pdf.

was a mayor who had been sentenced to 1 year imprisonment suspended for 2 years for the continued commission of the crime of incitement against a community.

Prohibition of organizations that promote racist hate speech

93. In terms of prevention of organizations from promoting hate speech, a phenomenon from 2011 shall be shed light on. Regarding far-right organisations, groups and their activities, a specific term became known in Hungary in 2011: “crimes committed by persons in uniform”.

94. Against such crimes Act XL of 2011 took an explicit action, given that the purpose of this Act was to prevent non-governmental organisations to be formed without any legal basis and statutory control while giving an illusion of officialdom. It is not the right and obligation of certain non-governmental organisations to keep or restore the law and order; it is the sole right and possibility of the state.

95. This Act amended the old Criminal Code (Act IV of 1978), and introduced a new criminal offence, namely unlawful organisation of public safety activities (section 217 of the old Criminal Code, section 352 of the new CC); and added another sentence to the crime of violence against a member of the community.

96. The CC became stricter regarding participation in disbanded (paramilitary) organizations as well as the use of non-official uniform-like clothing to avoid intimidation by such groups.

97. Due to the stricter rules, more cases are brought to court, and the courts have become very creative with the sentences, and are ordering the perpetrators to visit certain memorials or read specific books.

98. Organizing an activity aimed at maintaining public safety and law and order can become un-lawful if it is done without being authorized by law to do so or aiming at making the impression of maintaining public safety and law and order.

99. It also has to be mentioned that the operation of the Civil Guard has substantially changed in order to avoid abusive practices of such organisational structures, thus optionally badgering members of certain minorities.

100. According to the new sentence of the criminal offence of violence against a member of the community, it does not only give protection against assault or compulsion committed because of being a member or a presumed member of a national, ethnic, racial or religious group or a certain group of population, but it includes now non-violent acts displaying a conspicuously anti-social conduct that is capable of causing panic in members of the affected group. Such behaviours became punishable by imprisonment up to 3 years.

101. In recent years the rules on participating in dissolved associations became stricter in the law on infractions as well. It constitutes an infraction to illegal conduct public safety activities, and the provisions on participation in a dissolved association also became stricter. Act II of 2012 on Infractions (hereinafter: Act II of 2012) allows confinement, and raised the amount of the fine to be imposed regarding this infraction. The rules of investigating and detecting such misdemeanour have also changed to make it more effective. Thus, for example, the police can order the search of a house, apartment, room or other enclosed space, if there is reasonable suspicion that it will lead to means of evidence. Moreover, the Act II of 2012 punishes illegal conduct of public safety activities (Section 171).

102. In more general terms, it shall be emphasized that the general limitations concerning the freedom of association are defined in accordance with Article I. Paragraph (3) of the Fundamental Law. According to the Act CLXXV of 2011 on the Freedom of Association, on Public-Benefit Status, and on the Activities of and Support for Civil Society Organizations (Freedom of Association Act),¹³ organizations under the right of freedom of association may pursue any activity that is in harmony with the Fundamental Law and that is not prohibited by law. The exercise of the right of association may not infringe Article C (2) of the

¹³ <https://njt.hu/jogszabaly/2011-175-00-00>.

Fundamental Law, may not constitute a criminal offense or incitement to commit a criminal offense, and may not infringe the rights and freedoms of others. Under the right of association armed bodies may not be created, and activities for the pursuit of public functions conferred under the exclusive jurisdiction of public bodies by law may not be carried out. The Hungarian legislation ensures the lawful operation of organizations under the right of freedom of association through the intervention possibilities of the independent public prosecution and judiciary.

Situation of Roma

103. With regard to the situation of Roma, it shall first be outlined that self-identification comprises a key aspect in the course of determination of the Roma population in Hungary. Unlike in many other European countries, in the 2011 census questionnaire, different aspects of belonging to a nationality were examined in a total of four questions: in addition to nationality, there were also questions about mother tongue and language spoken by family and friends.

104. Based on the joint examination of the answers to the four questions related to nationality, we consider a person to belong to a given nationality if he/she has indicated the given nationality in at least one of the four answers. The census methodology was followed by the 2016 microcensus as well as by the Labour Force Survey (from 2013 on) and the Household budget and living conditions data collection (from 2014 on). The Labour Force Survey is the largest HCSO survey based on a continuous population survey: it covers approx. 30,000 households and 50,000 people. The Household budget and living conditions data collection covers more than 9,000 households and nearly 20,000 individuals.

105. In order to eradicate structural discrimination and achieve social inclusion, several programmes, with different instruments and for different segments of the wider target group – disadvantaged pupils/students, including a high proportion of Roma pupils/students – aim to reduce early school leaving, strengthen opportunity-creating education and eliminate geographical and in-school segregation. From early childhood to higher education, the programmes provide pedagogical services and other services supporting education, as well as mentoring, scholarships, in-kind benefits (housing, school supplies) and, for the most part, the development and support of pedagogical professionals and other professionals supporting education.

106. *As for an example, Sure Start Children's Houses* provide assistance, including early development if necessary, to children aged 0–3 years living in deep poverty, having socio-cultural disadvantages and being mostly Roma, at the early stage of life particularly important for their later development, in order to develop the skills and abilities essential for their later integration in kindergarten as well as for their school success, and to reach the optimum of their age development. All this takes place with the involvement of parents, at the same time by strengthening parental competencies. In the Houses, ideal environment is created for the development of movement, speech and intellect, and through caring for the children, the parents themselves acquire the knowledge necessary for the upbringing of a healthy personality.

107. Sure Start Children's Houses were launched in the framework of a pilot programme and by now they are a permanent, legally regulated and domestically funded part of the Hungarian service system. While in 2012 there were 42, in 2022 there are already 188 Children's Houses operating in Hungary, and every year more than 2,400 children regularly attend Children's Houses with their parents.

108. In the Children's Houses Roma women are employed, in the framework of the project HRDOP-1.4.3-16 Good Small Place – Support for Sure Start Children's Houses and Complex Children's Programmes in Small Settlements. The latter project involves disadvantaged families, including Roma families, and requires the employment of at least 1 local, disadvantaged/Roma person with a basic education.

109. *Compulsory kindergarten education* was introduced in Hungary in 2015: from September 1, 2015, attending kindergarten is mandatory from the age of three. Kindergarten

services and meals are free of charge. Kindergartens have a particularly important function in compensating for socio-cultural disadvantages. In recent years, nearly 5,500 new kindergarten places have been created. Currently, 92% of Roma pre-school children attend kindergarten.

110. The so called “*tanodas*” (*study halls for after-school education*) aim at helping mainly primary school-age pupils (and, to a lesser extent, secondary school-age students) living in difficult social conditions (largely in Roma families), with extracurricular activities. These institutions help their pupils prepare for the next day’s school and complete their schooling successfully. The after-school education programme provides complex services for 20–30 children per institution, who are less successful in the public education system. Due to their social situation, children and young people on the social periphery would otherwise have limited or no access to these services. Tanodas not only undertake educational tasks, but also place emphasis on activities related to socialization, career building, cultural mediation, community development, leisure organization and social support. Thus, the institutions also make a significant contribution to reducing the socio-cultural disadvantages of their pupils and preventing them from dropping out of school, while also reaching the children’s families through some of their programmes.

111. Between 2015 and 2018, 289 EU-funded institutions made it possible to compensate the disadvantages of nearly 8,500 pupils. From 2019 tanodas became part of the national education system. Hungary’s central budget contributed to the operation of 196 tanodas in 2019, 185 tanodas in 2020 and 183 tanodas in 2021. These institutions helped nearly 6,000 pupils each year.

112. *Dormitory Plus model programme* also has a disadvantage-compensating function primarily for primary school-age pupils. The programme targets those disadvantaged pupils aged 6–16 (mainly upper primary school children), including Roma pupils, for whom child welfare prevention measures have become necessary in addition to catching up. 60% of pupils in the model programme would be placed in specialist child care without the dormitory programme aimed at catching up. The programme provides educational, child welfare, leisure and cultural services in the framework of dormitory care. The programme provides additional services by expanding the activities of existing primary school dormitories.

113. Launched in 2017, the model programme reaches an average of 240 children in 9 locations.

114. The project HRDOP-1.4.4-17 “*Bari Shej – Big Girl – Fata Mare*” Increasing the further educational opportunities of Roma girls provides complex services for Roma girls aged 10–18 (primary school or secondary school girls), which aim at supporting their further education and reducing the early school leaving, in addition to the improvement of their health status and quality of life, and the establishment of their employability, with the help of mentors. It is a unique programme in Europe that also addresses problem areas (juvenile pregnancy, prostitution, human trafficking) where a large number of Roma women is present, and therefore focused, preventive interventions for Roma girls are needed.

115. From the 2017/18 school year, 1,800 disadvantaged young girls are involved in the programme.

116. *Roma Special Colleges* (also known as *Roma boarding schools*) aim at promoting the participation and graduation of disadvantaged (primarily Roma) youth in tertiary education and strengthening their social role, active citizenship and community activities. These institutions provide housing and study (mentoring and tutoring) support, in addition to a scholarship scheme and community events, to disadvantaged and/or Roma full-time students. Students receive a performance-based scholarship, which is in all cases linked to measurable professional-research performance.

117. The services of Roma Special Colleges are built into the Hungarian Higher Education Act and normatively funded from the central budget of Hungary. Currently, there are 11 Roma Special Colleges operating in 9 settlements. Since 2011, in 10 years the number of students increased nearly sixfold (from 57 to 338). By the end of the 2019/2020 academic year, a total of 410 students graduated with BA/MA degrees and 90% of them work.

118. By now, the results of the fight against unemployment and poverty have appeared and stabilized in a measurable and verifiable way. This is evidenced by research reports among others from the Hungarian Central Statistical Office (HCSO). All the indicators measuring poverty can be said to be improving at a different pace but continuously after the low point between 2012 and 2014, and this also applies to the data on the Roma.

119. The main social inclusion programmes aimed at improving the living conditions of the Roma population, including housing and access to services, are as follows:

Complex programmes for segregated areas

120. According to the database of the 2011 census, there are 1384 settlements (segregated areas, including underdeveloped parts of settlements embedded in settlement fabrics), inhabited mainly by Roma, in 709 municipalities in the country. 2.8% of the country's population lives in these segregated areas.

121. Complex programmes for segregated areas (also known as complex settlement programmes or complex settlement programmes) can be considered a good practice in Central Europe. These programmes provide complex services for people (primarily Roma) living in segregated areas and areas at risk of segregation, in the following fields: settlement-type (continuous) social work, after-school education, promotion of effective participation in kindergarten and school education, adult education, health care (health awareness development, screening programmes), employability and employment, community development, housing (renovation of houses and their surroundings with the involvement of the community in the segregated areas; building new social rental houses in integrated areas). The programme implementation is also supported by knowledge sharing and networking. The overall objective of the programme is to enable the communities of the segregated areas to take joint and individual responsibility and live independently.

122. The programme is supported by a national priority project where 8 territorial coordinators and 50 local experts are involved and a methodological manual is developed.

123. In the 2014–2020 EU programming period, the programme is implemented in 120 segregated areas in 95 non-urban settlements, and reaches more than 30,000 disadvantaged (mainly Roma) people.

124. In 2019 the Hungarian government launched a comprehensive programme – called *Emerging Settlements Program* – in order to facilitate the catching-up of the 300 most disadvantaged settlements of Hungary. The primary focus of the Emerging Settlements Programme is on children and on creating a chance for them so that they would not necessarily inherit their parents' destiny but would have a chance to live a different life. There are more than 310,000 people living in these 300 settlements (which were selected on the basis of a complex set of indicators established by the Hungarian Central Statistical Office), and 5,000 children are born each year.

125. The programme is managed by the Hungarian Charity Service of the Order of Malta, which had also laid down the foundations of this programme by the Presence programme several years back.

126. The implementation of the settlement programs is based on the exploration of local conditions. An important element of the diagnosis-based approach is that it focuses on children, from birth to employment, with the widest range of instruments possible, from a very early age, starting from elementary education, vocational training and employment interventions to health and housing improvement.

127. The programme has been introduced in 118 settlements already, the involvement of the whole circle of settlements is planned in the coming years, supported by EU funds.

128. The coronavirus pandemic had an impact on all segments of the labour market in 2020, thus somewhat reversing the favourable trends in the situation of the Roma. However, there were no significant changes that would have exacerbated the significant differences between the majority and the Roma society.

129. The Roma population, nearly four-fifths of whom have at most a basic education, as opposed to one-fifth of non-Roma, is present in the labour market in a lower than average

proportion and in less favourable positions. In addition to the composition by educational attainment, the territorial distribution of the Roma population and the low employment rate of Roma women also contribute to the low employment rate.

130. Between 2014 and 2020, the labour market situation of both the Roma and non-Roma groups improved significantly. Despite an increase of more than 20 percentage points in Roma employment, their relative positions have not improved, with the gap with non-Roma in 2020 still standing at 27.6 percentage points.

131. The difference between the employment rates of men and women of those who profess to be Roma is significantly larger than that in the majority society. In 2020, 54.7% of Roma men aged 15–64 were employed, but only 35.1% of women, although the latter rate is almost 10 percentage points higher than in 2014.

The unemployment rate of the Roma and non-Roma population aged 15–74 has developed as follows in recent years

	2013	2014	2015	2016	2017	2018	2019	2020
Roma population	39.3	30.0	27.8	20.2	18.2	18.4	16.7	17.2
Non-Roma population	8.9	6.5	6.0	4.5	3.7	3.3	3.0	3.9

Since 2013, the ratio of Roma people living in households with a very low work intensity has decreased to less than half

<i>Poverty and living conditions</i>	2013	2014	2015	2016	2017	2018	2019	2020
Ratio of people in quasi-jobless hh (0–59)	12.8	9.4	8.2	6.6	5.7	5.1	4.9	3.7
Roma	45.3	26.7	35.9	25.2	15.1	13.8	16.6	20.3
Non-Roma	8.4	6.6	5.2	4.5	3.9	3.3	4.7	3.1

132. The proportion of Roma people with altered working capacity is twice as high as in the non-Roma population.

133. Nearly two-thirds of Roma young people aged 18–24 were early school leavers in 2020, and their NEET rate is nearly four times that of non-Roma.

134. The role of public employment in employing Roma far exceeds that of non-Roma. According to our latest data, 23% of Roma employees declared themselves to be in public employment.

135. In recent years, there has been a significant improvement in the living conditions of the Roma. While in 2013 only 10% of the Roma population was not at risk of poverty or social exclusion, in 2019 this proportion increased to 47.1%.

136. Until 2018, the largest proportion of the Roma population was affected by severe financial deprivation. Currently, income poverty affects the largest share among them. The income poverty rate also shows a significant improvement: in 2019, 34.7% of the Roma population lived below the poverty line, compared to 67.9% in 2013. The proportion of people living in low work-intensity households declined by 30 percentage points between 2013 and 2017. Data from recent years show stagnation, with 15.2% of Roma households affected by work poverty in 2019.

137. In the followings, main social inclusion programmes implemented directly in the field of employment are being presented:

138. The *Family Port Programme – Social Land Programme* has the main objective of making rural life more liveable, to improve the village image through tidy and well-kept family gardens, and to increase the self-sufficiency and self-care capacity of the families participating in the programme. The programme also provides an opportunity for community action for the benefit of the village as a whole, which will help to build the trust and support of the local community.

139. The Family Port Programme focuses on families. The programme requires commitment, individual/family responsibility, community-level thinking and ongoing activity from participants.

140. The nationally funded programme is announced annually, with a budget of HUF 240 million in 2021 and 2022. The number of disadvantaged families reached is more than 5,000.

141. The “*Growing Chances*” programme – *Training embedded in employment* (project HRDOP-1.1.2-16 and HRDOP-1.1.3-17) serves for promoting the social inclusion and implementing the employment of unemployed Roma, especially Roma women. The innovation of the programme is that in-house training takes place with the following phases: Selection (aptitude test), conclusion of an employment contract and training; three months after the training, specialized training, continuous work during the training; Full-time employment upon completion of training.

142. In the development of the previous programming period, which ended in 2015, 1,012 Roma women obtained vocational qualifications: kindergarten nurse, early childhood educator, child and youth supervisor, social caregiver and nurse, social assistant. From 2016, the programme continued with the support of EU funds: more than 1,500 people took part in training embedded in employment, in the same professions as in the previous programme. After the end of the 36-month project period 81% of the target group members – that had already left the project – successfully entered the labour market and remained in employment.

143. In respect of housing, we call the attention to the fact that there are several forms of state support, which are generally available for those in need.

144. As for an external accommodation development *Temporary family homes* may provide out-of-home care for families who are able to live independently with minimal support, no longer require ongoing assistance, and can be enabled to leave the social care system through social work.

145. In the field of the fight against human trafficking, the implementation of the action plan of the national strategy adopted by Government Decision 1046/2020 (II. 18) for the period 2020–2021 was a priority task for 2021. Under the responsibility of the Department of Child Welfare at the Ministry of Human Capacities, Measure II.1.10 set out to increase the capacity of assistance services that respond to forms of exploitation, in particular temporary family homes. The strategy required the creation of at least 5 available external accommodation places for 5 persons each by 31 December 2021, for an amount of 250 000 000 HUF.

146. In 2021, the Ministry of Human Capacities provided a grant of 30 000 000 HUF to the Hungarian Protestant Aid Organisation to achieve the objective above, and the grant was used to create external places (flats) providing suitable accommodation for 3 families.

147. The remaining amount (220 000 000 HUF) was used among maintainers who are skilled in assisting and rescuing victims of human trafficking, run temporary homes for families, and have applied for support for the construction of external accommodation.

148. In total, 109 new external places were created in 22 flats, helping families living in temporary family homes to reintegrate into society, support their independent living, and reduce their re-institutionalisation.

149. By Government Decision 1228/2022 (IV. 14.), the Government promulgated the new National Strategy for 2020–2023 on the fight against trafficking in human beings and the Action Plan for its implementation for the period 2022–2023.

150. Measure II.3.10, under the responsibility of the Department of Child Welfare at the Ministry of Human Capacities, provides for the further expansion of the available capacity of assistance services responding to forms of exploitation, in particular temporary family homes.

151. At the request of the Ministry of Human Capacities, the Margit Slachta National Institute for Social Policy launched a call for proposals titled “Support for the construction of external accommodation places for temporary family homes 2022” on 3 May 2022. The aim of the program is to provide support to temporary homes for families and their operators

in order to build, purchase, and renovate external places of accommodation, thus helping the efficient operation of the service, the integration of families, the transition of families out of care, and the access of victims of trafficking to the service. Funding amount: 250 000 000 HUF.

152. On the other hand, homelessness is a particularly different phenomenon, since it is not the same as being unhoused or housing poor, it is a much more complex problem. Homelessness is a multi-dimensional condition affecting the entire person, socially, mentally, health-wise, which involves the loss of housing. Therefore, it is important to address this complex set of problems as a whole. Consequently, for the majority of homeless people, preventing homelessness and re-housing will not be effective without addressing all the root causes of homelessness and developing their capacity to live independently. Addressing all of the above together may enable the social care system to provide successful social support to homeless people who are reluctant, or refuse to seek help.

153. The funding for the homeless care system in 2010, including additional and other grant funding, was around HUF 7.5 billion. Due to changes in the way funding is provided – including additional funding for churches –, it is difficult to compare the provision of funding in previous years with funding in 2021. However, it is clear that there has been a substantial increase in public funding for homeless care by 2021 compared to 2010, with an overall surplus of around HUF 5 billion. This represents an increase of more than 60% in funding over 11 years. The Government of Hungary has allocated more than HUF 12.5 billion nationwide for the operation of the homeless care system in 2021 – which will continue to be available in the future. In 2021, institutions serving homeless people could receive a total of more than HUF 681 million in grants.

154. This demonstrates that the Government's plans and measures for the homeless go beyond providing basic living conditions. An important element is that all homeless people should have access to services and that no one should be forced to spend the night in public spaces. To achieve this goal, the Government has taken complex measures in recent times.

155. *Concerning the field of education it shall be added that*, there are continuous policy measures in Hungarian public education system which aim to improve access to quality mainstream education of Roma children and students, also with using reliable statistics through various forms of data collection:

156. In order to avoid misdiagnosis and misplacement of Roma children as students with special educational needs (SEN), the voluntary declaration of the ethnic identity of the child by the parents in proceedings before the expert committees has been possible since November 2014. Since last CERD report, between 2019–2021, expert committees carried out 452,415 examinations, 641,401 declaration forms were filled in by parents, 1,088 declarations of Roma ethnicity (double affiliations included) among them, 628,102 parents didn't take such declaration.¹⁴

¹⁴ There are attempts to apply perception-based data collection methods (pro futuro) at regional level. As a result of the public interest action brought in 2010 before the Eger High Court by the Chance for Children Foundation and the European Roma Rights Centre concerning the systematic misdiagnosis of Roma children in Heves County [referred to in the Committee of Ministers' decision (CM/Del/Dec(2019)1348/H46-11)], the Debrecen Court of Appeal (in case Pf.I.20.214/2020/10.) ordered the Ministry of Human Capacities to "examine in Heves county, for five years starting from 1 January 2021, the number of compulsory school age children classified as having special educational needs and capable of being perceived as Roma, and to publish the results of the examination in the given calendar year and the measures taken to eliminate the infringement on its website by 31 March of the following calendar year".

Having considered data collection options, the most appropriate solution was found to link the data collection directly to the expert committee's examinations, including basic examinations and reviews. Since the court ordered data collection not only in respect of mild intellectual disability but also in respect of special educational needs in general, not only the Heves County Pedagogical Service but also the Metropolitan Pedagogical Service had to be involved in the data collection, given that some disability areas (visual, hearing, locomotory disabilities) are diagnosed also by the Metropolitan Pedagogical Service, whose obligation extends to the whole country or to several counties, including Heves County. Perception-based data collection commenced and the data of the two mentioned

157. The public education system applies the definition of disadvantaged and multiple disadvantaged situation of children, introduced by the Act on Child Protection (section 67/A subsection (1) of Act No. XXXI of 1997 on Child Protection and Custody Administration). Public education uses proxy data to improve access of socially disadvantaged children, including Roma children to quality, mainstream education. Behind the definition of “socially disadvantaged or multiple disadvantaged”, there are indicators such as low income in the child’s family, low qualification level of parents, poor housing conditions of the family, deprived labour market conditions of parents – these indicators are in correlation of the socioeconomic situation of Roma communities.

158. In order to measure segregation and for targeted interventions, segregation index also have been applied. Developments for desegregation implemented through the project “Supporting schools which are at risk of student drop-outs” (HRDOP 3.1.5) which offered assistance between January 2017 and July 2021 to prepare schools being at risk of segregation by methodological developments. The schools involved in the project were selected according to segregation index, low performance and schools with court procedure because of segregation have been also involved. The developments to foster desegregation measures and to strengthen inclusion policies have been offered to these schools and their operators. HRDOP 3.1.5 project facilitated to prepare schools being at risk of low performance and of segregation by methodological developments. A total number of 300 primary and secondary schools (ISCED 1–3) participated in the project.

159. Complex assistance have been provided for schools and school-maintainers in order to enable them to raise students’ achievement and to implement desegregation:

160. The schools integrated their activities defined by the Complex Action Plan related to the pedagogical system supporting school drop-out prevention (developed also within the project) into their school-level documents, such as their annual work plans and local pedagogical programs. Elaboration of the short and medium-term Complex Action Plans (2020–2023) was supported by series of workshops and accredited in-service teacher training courses focusing on the themes of school development (1541 educators/teachers participated in these courses). The implementation was supported by 53 implementation mentors assisting, encouraging the educators/teachers (1333 persons) who have been the members of micro-groups in their schools. The number of teachers working full-time for the project schools is approximately 6000, and a quarter of the total is provided by some types of service. (Courses and workshops transferred to online in COVID19).

161. Among schools involved, the rate of students highly risked by drop out had decreased by 1% between the academic years 2018/2019 and 2019/2020.

Improvement in average performance points in reading and mathematical literacy in project schools, 2018 and 2019

	2018	2019
Reading literacy		
Grade 6	1 404	1 411
Grade 8	1 496	1 510
Grade 10	1 673	1 683
Mathematical literacy		
Grade 6	1 425	1 429
Grade 8	1 515	1 523
Grade 10	1 657	1 667

Source: Educational Authority, 2021.

pedagogical services have been aggregated by the Ministry of Human Capacities (for the first time in January 2022, published according to order of Court mentioned above:
https://www.oktatas.hu/pub_bin/dload/kozoktatasi/uj_kozneveles/2022_03/UKN_2203_03_Kutatas_Heves_megyeben.pdf).

162. For defining the measures to improve access to quality, mainstream education and desegregation, databases were compiled for a total number of 60 school maintenance centres in 2019–2021. Databases contains the output and performance indicators of schools in every maintenance centres, proportion of socially disadvantaged students in and between schools – if exceeding 25% – for desegregation. The work was supported by mentors.

163. Deliveries and outputs of programme “Supporting schools which are at risk of student drop-outs” (HRDOP 3.1.5; implementing period: 2017–2021) have been synthesized, structured and disseminated comprehensively in 2022.¹⁵ Sustainability of the outcomes of the project is ongoing.

164. In the public education system, the implementation of systemic measures in order to improve education outcomes, improve the access to quality inclusive education is continuous.

165. For avoiding and preventing school segregation, enhance rates of school attendance and school completion among socially disadvantaged children, including Roma children and to improve their educational opportunities and achievements, the following measures are in progress:

166. Antisegregation Working Groups were established in every State School Maintenance Center (60 centres in total) by 2018 October so as to support and monitor the improvement of inclusive education and desegregation. Main activities of the Antisegregation working groups are: monitoring local educational situation, interventions and improvements in inclusion and desegregation, discussions and cooperation with local educational stakeholders, monitoring of segregation. School Maintenance Centres invited local stakeholders (e.g. social partners, childcare services and NGOs, maintainers of church schools, local municipalities, kindergarten teachers, etc.) into the working groups in order to monitor implementation of inclusive education, desegregation.

167. In order to implement antidiscrimination legislation and prevent discrimination, School Maintainer Centres shall draft their Equality Action Plan on Public Education. As of April 2018, supervision of the educational equality action plans at least in every 3 years is obligatory which is stronger guarantee for supervision than previously. The measurement serves the improvement of inclusive education, helps the planning, monitoring and evaluating of tasks to be carried out by the schools, school operators and stakeholders. Methodological assistance for supervision of equality action plans – data collection, analysis, planning, etc. – is provided by a project supported by EU funds with the aims of a comprehensive school development especially in low performing schools and desegregation (see above). The School Maintainer Centres need to coordinate the negotiation among the different school maintainers and elaborate a desegregation action plan. Some of the main measures implemented according to desegregation action plans (as part of Equity Action Plans): modification of school districts; revision of school districts and transport possibilities of students (school buses, student card for public transport free or reduced price) to access mainstream schools; school closure, no 1st grade launched; cooperation with local church schools in students’ enrolment; information for parents on school enrolment, etc.

168. Catchment areas to determine local and proximity schools existing in Hungary and are contributing to prevent and/or avoid segregation. State School Maintainer Centers have the rights and obligation to modify their school admission districts taking account the ratio of socially disadvantaged students living in the area of school district (for that purpose, modification of Act on Public Education Section 50 came into force from January 2020). Re-definition of catchment areas can potentially change school composition by making them more socially diverse. In 2019/2020 49 and in 2020/2021 school year 64 school districts have been modified in order to avoid segregation.

169. As of September 2015, pre-school education is compulsory from the age of three contrary to the previous legislation as age of five. Increasing the access to quality early childhood education and care could contribute to improve educational outcomes, in particular for children from socially disadvantaged families, including Roma children. From age three, 92.8% of children participate in ECEC which is at EU average. In 2016, Roma participation

¹⁵ <https://hirmagazin.sulinet.hu/hu/s/ilmt>.

was at 91%, close to the national average and by far the highest among Member States in the region.¹⁶

170. Proportion of children attending preschool has increased in each age group:

- 3 year olds: from 80.3% in 2014/2015 to 84% in 2020/2021;
- 4 year olds: from 94.7% in 2014/2015 to 96% in 2020/2021.;
- 5 year olds: from 95.1% in 2014/2015 to 98% in 2020/2021.¹⁷

171. In order to improve access to quality education and compensate social disadvantages, provision of free meals to disadvantaged children has been offered: in 2021/2022, 75.1% of children in preschools had free meals. 51.4% of children in elementary and high schools received free catering or catering at reduced prices. From 2021, all students in full-time primary and secondary education receive free textbooks.¹⁸

172. *The National Assessment of Basic Competences*, a national, centrally organized testing system for mathematic and reading competences, and students' performance in foreign languages is designed to test every pupil in every basic school at grades 6, 8 and 10 annually. The assessment is organised by the Educational Authority, which prepares the tests and questionnaires, processes and publishes the results. The assessment is supplemented by a family background index on the socio-cultural background of students. In addition, since 2010, it is possible to monitor the progress of individual pupils and in this way examine the impact of the school in compensating social disadvantages. Systemic assistance is being provided for low performing schools on an ongoing basis: learning outcomes based on the last 3 years' national basic competence assessments and demands for methodological assistance are also examined by Educational Authority: if 50% of students in grades 6, 8 or 10 in school haven't achieved minimum requirements in reading and maths (low achiever schools – appr. 30% of schools and school-sites), the school-maintainer obligated to prepare comprehensive action plan to improve learning outcomes. The schools also obligated to take professional, methodological assistance from pedagogical assistance services in order to eliminate low achievement, improve school performance and prevent drop-out.

173. As of November 2016, the Strategy against Early School Leaving (ESL) introduced the early warning and pedagogical support system to prevent drop-outs from schools. The system is operating to support necessary interventions both student and school level. Specific interventions must be elaborated for those students who would definitely drop out of the educational system without such interventions. At student-level, the warning system monitors signals for ESL such as absenteeism, grade repetition, underachievement, social factors, etc. The aim of the warning system is to have a comprehensive view of the student's needs and ensure that students at risk of drop-out receive the tailored support they need.

174. According to data gathering of the ESL warning system, the outputs of 2021 can be summarized as follows:

“There is a slight decrease in ratio of students who are at risk of drop out: 10.85% in 2017, 8.86% in 2018, 7.46 in 2019 6.80% in 2020, 6.29 in 2021 (EWS, Educational Authority, (EA), 2021.) Drop-out ratio (national indicator) also decreased: 2014/2015: 7.2%, 2017/2018.: 6.7%, 2018/2019.: 6.6%, 2019/2020: 6.1% (2019/2020: break in time series). The rate of early leavers from education and training slightly improved. Ratio of early leavers from education and training among Roma slightly improved. Among Roma young people aged 15–24, the proportion of NEET decreased from 47% in 2013 to 39% in 2020 (Source: Monitoring of Hungary's National Roma Strategy, strategic indicators, Ministry of Internal Affairs; Central Statistical Office; 2022)”.

175. ‘Arany János’ Programmes – which are operating in secondary school education – targeting socially disadvantaged and multiple disadvantaged students, including Roma students. Arany János Programmes aim to promote pupils' success in school, to support the

¹⁶ FRA 2016.

¹⁷ Statistics of Public Education; KIR-STAT 2021. Ministry of Human Capacities, [Population of Hungary by sex and age 1870-2070 \(ksh.hu\)](#).

¹⁸ Statistics of Public Education; KIR-STAT 2021. Ministry of Human Capacities.

progress of vulnerable groups of pupils in secondary education, prevent drop-out and to nurture the talents through a complex system of educational, social, health and cultural tools. 3000 socially disadvantaged students involved per schoolyear, drop-out rates are below the national average. ~30% of students in programmes are Roma students.¹⁹

176. The Hungarian authorities have taken a series of measures to strengthen the legal guarantees needed to avoid the misdiagnosis and misplacement of Roma children as SEN and to improve their application in practice (see above as well). The “expert activity” (committee of experts), one of the pedagogical assistance service institution’s duties. Pedagogical assistance service institutions operate professional diagnostical committee. The professional diagnostical committee of the county pedagogical assistance service institution shall draw up an expert opinion on the basis of their complex psychological, pedagogical-special educational, and medical examination. New (adapted) IQ tests (in the last 10 years), which are presently used by the committees, : WISC-IV, WAIS-IV, WPPSI-IV, UNIT2.

177. Due to measures to improve equity in education, school performance, the following positive developments have to be highlighted.

178. According to PISA2018, socio-economic status isn’t as strong predictor of performance as it was in previous PISA cycles:

- 24% of the variation in mathematics performance in PISA 2018 in Hungary, 31,6% in PISA2012;
- 21% of the variation in science performance in PISA2018, 21,6 in PISA2015;
- 19% of the variation in reading performance in PISA2018, 21,6 in PISA2015 (26% in 2006).

Between 2015 and 2018 there are positive changes in proportions of low performers:²⁰

Underachievers

<i>Proficiency below Level 2</i>	<i>2015</i>	<i>2018</i>
In reading	27.5%	25.3%
In maths	28.0%	25.6%
In science	26.0%	24.1%

179. In the area of providing health care, the “*We take the examinations to the place*” programme make services available in small settlements where access to examinations is difficult because of transport conditions. The programme is ongoing since 2018. It is funded from domestic resources – has been promoting equal access to screenings by providing 10 mobile units (buses) for general examinations as a service near the place of residence, mainly in disadvantaged settlements.

180. Between 2018 and 2021, the programme reached more than 28 000 people (women: 78.5%; men: 21.5%). (This means around 170 000 examinations.)

181. The mobile units, complementing the Covid-19 sampling capacity of the National Ambulance Service, have also been continuously involved in the tests ordered by general practitioners since November 2020.

Details of the programme:

182. The aim is to provide easy and quick access to services by mobile units (buses) in small settlements where access to screening is difficult to due to transport conditions. Targeted, coordinated measures and appropriate information mobilise the inhabitants of settlements and help those who want to take action in the field of health.

¹⁹ <https://www.schooleducationgateway.eu/en/pub/resources/toolkitsforschools/detail.cfm?n=486>.

²⁰ OECD PISA 2015, 2018.

183. Territorial targeting, health services near the place of residence and complexity will help to address the specific access to health care and patient pathway management problems of these areas by reducing existing service quality gaps.

184. From 2019, settlements identified in Government Decision 1404/2019 (VII.5.) on the establishment of the long-term programme “Catching-up municipalities”²¹ will be given priority in the annual schedule of the programme “We take the examinations to the place”.

185. Uniformly available in catching-up municipalities:

- Organised cervical screening for public health purposes, and those eligible can also receive the organised colorectal screening package;
- A general health check (oral cavity examination, blood sugar and cholesterol determination, blood pressure measurement, BMI calculation, bone density measurement, PSA test, respiratory function test, body composition analysis, ECG and ankle-arm index test, as well as a cardiological risk assessment questionnaire including questions on lifestyle and family history);
- Cardiological examination.

186. Additional tests are available depending on the free capacity of the local/county health service provider under contract with the implementing National Centre for Public Health (angiology, dermatology, ear, nose and throat tests, and dietetic advice).

187. As part of the programme “We take the examinations to the place”, the screening buses, as a basic criterion are integrated into the current screening system, work closely with primary and specialised care, including general practitioners, state-owned health care providers (hospitals) with a territorial coverage obligation, Health Promotion Offices involved in mobilisation and information, and the György Gottsegen National Cardiovascular Institute. Cooperation is also essential with local authorities, government offices, the Hungarian Charity Service of the Order of Malta and the National Roma Self-Government.

188. Patient pathways for those detected in the examinations is ensured through the cooperating local/county health care providers and general practitioners.

189. With regard to persons, living in settlements, *prevention and treatment of addiction problems* is also a key concern. The pilot programme has started in 2019. The use of new psychoactive substances is a serious problem in around half of the settlements (31 in total) participating in the programme, particularly among young people.

190. In cooperation with the Ministry of Human Capacities and the National Association of Addiction Counsellors, training sessions on basic addiction knowledge were organized for the staff of the Hungarian Charity Service of the Order of Malta’s Presence programmes in the municipalities involved.

191. In addition, 10–12 addiction consultants were trained, who received information on the specific characteristics and problems of disadvantaged settlements and people living in extreme poverty.

192. Addiction counsellors provide counselling sessions for people with addiction problems and their relatives in these settlements with significant addiction problems, and support social workers on the ground with ongoing consultations.

193. As an output of the pilot programme, a practical toolkit has been produced, outlining key lessons learned, practical solutions and intervention methods. Due to its success and effectiveness, the programme continued in 2021. Implementation of the programme was extended until 30 June 2022.

²¹ In implementing article 8.b) of the Government Decision, the opinion of the Prime Minister’s Commissioner responsible for coordinating the preparation and implementation of the Roma inclusion strategy based on diagnosis shall be sought.

Situation of asylum seekers, migrants and refugees, refoulement

194. Hungary remains committed to protect the external borders of the EU against illegal migration, which could undermine the security of the continent and contributes to the erosion of the area of free movement. Furthermore, it is considered to be a threat to the sovereignty and identity of the country. On the ways to achieve this goal, certain debates have occurred. Taking the guidance of the relevant judicial fora into account, the Hungarian Government had decided on the closure of the transit zones already in May 2020, since then, there has been no asylum seekers accommodated in the transit zones.

195. Nevertheless, it shall be added that during operation, legislation still provided for the opportunity for asylum seekers to voluntarily leave the transit zones in the direction of Serbia which was concerned as a safe third country, declared in Government Decree 191/2015.

196. Applicants placed in transit zones were provided with free state legal assistance throughout the entire procedure, including in repeated asylum procedures, and had the possibility to appoint a legal representative of their choice. Many clients made use of both types of legal representation. Contact with these legal persons was ensured both in person and by telecommunication.

197. As for the legal framework, it is provided in Act LXXX of 2007 on Asylum and Government Decree 301/2007 on the implementation of the Act on Asylum. With regard to detention in the asylum context, Section 31/A-I of the Act on Asylum contains the relevant rules. It strictly lists the bases for ordering detention along with procedural safeguards which need to be observed through. According to Section 31/A (2) of the Act on Asylum, taking into account the individual circumstances of the applicant is a high priority when deciding on rendering detention.

198. Concerning the education in the time when transit zones operated, it can be noted that between September 2017 and May 2020, the Hungarian Government provided access to the Hungarian public education system for minor asylum-seeking children arriving in the transit zones until their coming of age. During this period, education was organized in the Röszke and Tompa transit zones according to the official school year. Two educational district centres were responsible for providing education in the transit zones: the Szeged Educational District Centre was in charge of education in the Röszke transit zone, while the Kiskőrös Educational District Centre in the Tompa transit zone.

199. Education for asylum-seeking children took place in the premises of the transit zones while they were operating, as during the official asylum procedure they had to stay within the zones.

200. After arriving in the transit zones asylum-seekers were placed into separate sectors while their submission for recognition was decided on. The sectors could accommodate 60–80 people. Education was organized within the sectors, but sometimes in order to be more efficient groups were merged from the different sectors.

201. Education took place in the social spaces within the sectors, from Monday to Friday from 9.00 to 12.00 o'clock. In both premises childcare-like service was provided during the summer holidays. Teachers taught students in a differentiated, experiential way and in addition to frontal work, group work and individual forms of work were also common. Groups were usually divided by age and also by knowledge. Teachers applied for the job voluntarily.

202. Due to the special situation, a flexible pedagogical programme was developed which focused on competence development, particularly targeting language, communicational, co-operative and cognitive skills. The curriculum was renewed in September 2019, and the main focus was placed on geography and on English as a lingua franca.

203. The composition of the groups of asylum-seeking minors staying in the two transit zones was changing on a daily basis as the duration of processing their applications varied from a few days up to months. For this reason no register or any other documentation was kept.

204. According to the data by National Directorate-General for Aliens Policing Office the number of asylum-seeking children entitled for public education and the number of days they spent in the transit zones in 2019 were as follows:

Röszke Transit Zone

<i>Age</i>	<i>Number of people</i>	<i>Number of days</i>
3–5	28	7 months
6–14	94	7 months
15–18	33	7 months

Tompa Transit Zone

<i>Age</i>	<i>Number of people</i>	<i>Number of days</i>
3–5	29	10 months
6–14	77	8 months
15–18	27	5 months

205. Transit zones were closed down in May 2020, but asylum-seekers are entitled to receive education in the school in the vicinity of their place of residence or stay.

206. In light of the most recent developments, it shall be emphasized that despite of the fact that Hungary does not support irregular migration, since the beginning of the Russian aggression it has proved that it is committed to provide protection in its territory to everyone, who is fleeing directly from war. The Hungarian authorities work together with the civil society in order to meet the needs of all the people who crossed the Hungarian-Ukrainian border. Hungary is convinced that it is possible to maintain the control of the external borders while helping those who are in genuine need of protection. According to Government Decree 86/2022, persons fleeing from Ukraine after the 24th February 2022 may become beneficiaries of the EU temporary protection scheme. This means that they are eligible for – amongst others – accommodation, food, healthcare, access to education and access to the labour market. Furthermore, assistance to third country nationals arrived from Ukraine who wish to return to their country of origin is also available.

Training and education on human rights and racial discrimination

207. The National Core Curriculum (NCC) is issued in Government Decree 110/2012. It provides the basic principles, specifies the obligatory and common objectives of the educational/teaching work performed in the general (non-vocational) phase of education. It focuses on the acquisition of key competences required for lifelong learning. It is the most important document regulating the content of the public education system. It contains the development fields, educational goals, and the tasks and values of the national education system and the content of subject areas.

208. The NCC has gone through a thorough revision, being introduced in a yearly schedule starting in September 2020 in grades 1, 5 and 9. It prescribes the full respect for human rights throughout the whole education cycle including the respect for equality, democracy and religious diversity as well as the knowledge of basic concepts concerning gender equality and anti-discrimination. An important part of the desirable attitude to be shaped is to overcome personal prejudice.

209. The NCC defines twelve basic educational goals which are of interdisciplinary character. These are supposed to be represented to a relevant degree in each class, regardless of the particular subject or grade. Among these educational goals the most relevant ones regarding human rights include the acceptance of the rule of law, the respect of human rights and the refusal of violence.

210. Beyond setting general goals set in all learning areas, the NCC sets particular goals in different school subjects. Thus basic principles and goals of teaching History include making

students familiar with the operations of a democratic state organization, the principles of the rule of law, human rights and awareness of citizens' rights and responsibilities.

211. A significant invention of the revised NCC is making *Civic studies* in grades 8 and 12 a separate and compulsory school subject as opposed to the previous version of the curriculum, in which civic studies used to be mostly integrated into *History*. This modification represents the importance of the topics incorporated into *Civic studies*, such as the importance of equal opportunities and social justice, the essence of the prohibition of discrimination and the realization of the negative impact and social risks of discrimination, stereotypes and prejudice.

212. The second layer of the content regulation system is constituted by the frame curricula. It is the frame curricula which elaborate the implementation of the NCC. Several frame curricula are provided for the different educational contexts – in alignment with the target group – and subjects.

213. Through public educational content regulation the system also stands up against hate speech, exclusion, and for the acceptance of religious and ethnic minorities.

214. These topics are emphasized in subjects such as Hungarian language and literature, History, Ethics, and Civic studies. In the frame curriculum of the latter, a separate topic is devoted to Freedom and Responsibility, Rights and Obligations, Social Responsibility. While dealing with these topics students learn in detail about fundamental human rights, civil rights and civil liberties. The learning outcome expected is: “(The learner) respects the other person's values, thoughts and opinions.”

Taking steps towards the implementation of various international standards

215. Hungary is fully committed to ensuring the conformity of the national legal system with the international commitments and obligations of Hungary. Article Q) Paragraph (2) of the Fundamental Law expressly stipulates this.

216. As a matter of course, states have the sovereign right to determine to which international treaty they become parties to. Hungary has already ratified the majority of the main international human rights treaties, and constantly assesses the possibility of ratifying any other human rights treaties.

217. It shall be recalled that as the principle of non-discrimination is part of the Charter of Fundamental Rights of the European Union, Hungary is committed to ensuring the right to equal treatment in line with EU standards and with common efforts of the Member States. Combating racism and antisemitism has been one of the political priorities of the French Presidency of the Council of the European Union recently. To that end, the Presidency prepared draft Council conclusions on combating racism and antisemitism as a follow-up to the Anti-Racism Action Plan and the EU Strategy on combating antisemitism and fostering Jewish life adopted by the European Commission in 2020 and 2021 respectively.

218. The conclusions adopted with unanimity highlight the importance of education and training, calling on member states to raise awareness among their population of the fight against racism and antisemitism and uphold their duty to remember the victims of racist and antisemitic violence. The conclusions invite member states to urge media, social networks, and technology and communications sectors to apply codes of conduct agreed at European level and adopt solutions to rapidly detect, assess and remove illegal online hate speech. Member states should also strengthen their ability to prosecute illegal online hate crime and hate speech, including by establishing online monitoring centres and platforms where people can report hateful content. When it comes to reporting and investigation, the conclusions also call on member states to encourage victims and witnesses of racist and antisemitic incidents to report those incidents, to ensure such reports are investigated and to offer assistance, including psychological, social and material support where necessary. Member states are also invited to include content on combating discrimination in training for law enforcement and judicial authorities, and to develop best practices for identifying and supporting victims. The conclusions call on member states to ensure national coordinators, public bodies, social partners and civil society organisations work closely together to develop preventive measures and evaluate their effectiveness. Member states are also asked to consider developing a

common methodology for quantifying and qualifying racial and antisemitic incidents and comparing them over time and between member states. Finally, the Council invites the Commission to support, including financially, member states, public bodies and institutions, local authorities and civil society organisations in the fight against racism and antisemitism.²²

219. These efforts are further confirmation of the determination of the Hungarian authorities to prevent and eliminate all forms of racial discrimination.

Consultation with civil society

220. The Government established the Human Rights Working Group in its decision adopted in February 2012 (Government Resolution 1039/2012 (II.22).) with the main purpose of monitoring the implementation of human rights in Hungary, conducting consultations with civil society organisations, representative associations and other professional and constitutional bodies as well as of promoting professional communication on the implementation of human rights in Hungary.

221. The Working Group monitors the implementation of the fully or partially accepted recommendations in relation to Hungary of the United Nations, Human Rights Council, Universal Periodic Review (UPR) Working Group. Due to the modification of the Government Resolution, the Working Group also reviews and monitors the enforcement of human rights conventions and agreements – of which Hungary is a signing party – adopted in the framework of the UN, the Council of Europe, the OSCE, and the obligations arising from Hungary's EU membership. It makes recommendations to the Government and the other central administration bodies involved in legislation and application of the law to provide regulations that allow for a wider representation of human rights and oversees the implementation of these regulations.

222. During its constitutive meeting held in 2012, the Working Group decided to establish the Human Rights Roundtable, which currently operates with 77 civil organisation members and further 40 civil and other organisations take part in the activities of the thematic working groups based on invitation. The Roundtable holds its meetings in 11 thematic working groups; each of them is intended to deal separately with legal and practical problems of and sectoral political proposals for vulnerable groups of society.

223. The thematic working groups are led by appointed State Secretaries or Deputy State Secretaries; the Working Group members are government agencies, civil society organisations, representative associations and professional bodies.

224. The thematic working groups provide an opportunity for a dialogue with civil organisations and for the approximation of government and civil views. Apart from the members, other organisations have also been invited in order to enable the participants of the meetings to discuss the same topic from several aspects. Thematic Working groups also held joint meetings which were not only attended by representatives of the civil organisations and the Government, but also of the National Police Headquarters, the Prosecutor General's Office and the National Office for the Judiciary.

225. According to the decision of the chair of the Human Rights Working Group, Thematic Working Group Responsible for the Freedom of Opinion is responsible for the dialogue on the issue of hate speech and Thematic Working Group Responsible for Other Civil and Political Rights is responsible for conducting consultations on hate crimes. At the same time, these topics concern the activities of other thematic working groups of the Human Rights Roundtable, so Thematic Working Group Responsible for LGBT Rights and Thematic Working Group Responsible for Roma Affairs are also discussed these issues. NGOs made recommendations to the Government in the field of combating hate speech and hate crimes and the relevant ministries answered for these recommendations on the meetings and in writing as well.

226. The civil organisations and the Government usually jointly establish the agenda of the meetings. The operation of the thematic working groups is greatly affected by the

²² <https://www.consilium.europa.eu/en/press/press-releases/2022/03/04/council-adopts-conclusions-on-combating-racism-and-antisemitism/>.

composition and proposals of civil and government participants. In order to ensure the transparency of operation of the Working Group and the thematic working groups, the reports of each meeting are uploaded to emberijogok.kormany.hu website.

227. Since 2013 the thematic working groups have had 173 meetings.

228. In accordance with the Rules of Procedure, the Thematic Working Group Responsible for the Freedom of Opinion meets twice a year.

229. The main duties of the group are:

- Closely following this fundamental human right in Hungary;
- Consulting on restrictive measures limiting this freedom in particular on any forms of hate speech;
- Identifying disorders that could prevent of upholding such human rights;
- Making proposals for a more effective legal protection;
- Consultations with civil society organizations working in the area of human rights.

230. One of the items on the agenda was 7th of December 2020 the examination of the Deputy Ombudsman for Nationalities in regards of a press statement which seriously offended a German community.

231. The following topic has been discussed during a meeting on the 30th of November 2021:

“Antisemitism and the right to freedom of thought, belief and religion within Europe and in Hungary (follow-up on the EU antisemitism strategy, presenting the research results of the Action and Protection Foundation (APF) and European Union Agency for Fundamental Rights (FRA), relationship between EU law and the freedom of religion)”.

232. In accordance to the Rules of Procedure, the Thematic Working Group Responsible for Civil and Political Rights meets twice a year.

233. The main duties of the group are:

- Closely following the implementation of fundamental civil and political rights with a special regard to victim support in Hungary;
- Identifying disorders that could prevent of upholding such human rights;
- Making proposals for a more effective legal protection;
- Consultations with civil society organizations working in the area of human rights.

234. Members of the Thematic Working Group Responsible for National Minority Affairs are representatives of the largest and most organized national minority NGOs and professional bodies. All the 13 national minority groups of Hungary are represented in the Thematic Working Group. In accordance to the Rules of Procedure of the Thematic Working Group holds its meetings regularly, twice a year.

235. The main duties of the group are:

- Promoting the enforcement of the rights of national minorities and follow up the implementation of these rights in the special fields of education, culture, media and languages in Hungary;
- Making proposals for a more effective legal protection;
- Consultations with civil society organizations working in the area of human rights.

236. On the meeting of the Thematic Working Group Responsible for National Minority Affairs on 10th December 2020 the representative of the Office of the Commissioner for Fundamental Rights in Hungary also reported to the examination of the Deputy Ombudsman

for Nationalities in regards of a press statement which seriously offended a German community.
