



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

Distr.: General
12 November 2018

Original: English
English, French and Spanish only

Committee on the Elimination of Racial Discrimination

**Combined eighteenth to twenty-fifth reports
submitted by Hungary under article 9 of the
Convention, due in 2004^{*}, ^{**}**

[Date received: 22 August 2018]


* The present document is being issued without formal editing.

** The annexes to the present document are on file with the secretariat and are available for consultation.

GE.18-19097(E)



* 1 8 1 9 0 9 7 *

Please recycle 



Abbreviations

Act CXXV of 2003 on equal treatment and on promotion of equal opportunities	Equal Treatment Act
Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals	Act on the admission of third country nationals
Act CXI of 2011 on the Commissioner for Fundamental Rights	CFR Act
Act CLXXIX of 2011 on the Rights of Nationalities	Act on the Rights of Nationalities or Nationality Act
Act CXC of 2011 on National Public Education	National Public Education Act
European Agency for Fundamental Rights	FRA
Act C of 2012 on the Criminal Code	CC
National Police Headquarters	ORFK
Act V of 2013 on the Civil Code	Civil Code

General information

Question no. 1: Information on the ethnic composition of the State party and clarification as to whether groups are officially considered to be national or ethnic minorities

1. With the adoption of the Act CLXXIX of 2011 on the Rights of Nationalities (hereinafter: Nationality Act) the legal environment has been revised to ensure wider opportunities for national minorities (hereinafter: nationalities) with special regard to the fields of public education, the use of language in public institutions or suffrage. The 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. The Nationality Act was passed by the Parliament following a widespread and in-depth consultation; nationalities living in Hungary have continuous presence in the decision-making process on issues affecting them through the nationalities' self-governments with nation-wide jurisdiction.
2. The definition on nationalities reads as follows in the Nationality Act: “any ethnic group resident in Hungary for at least one century constitutes a nationality provided that it is in numerical minority amongst the population of the State, is distinguished from the rest of the population by its own language, culture and traditions, and manifests a sense of cohesion that is aimed at the preservation of these characteristics and at the expression and protection of the interests of their historically established communities”.
3. The Act defines the personal scope of nationality rights and obligations. Accordingly, a person who has a residence in Hungary and identifies himself or herself as a member of one of the nationalities and declares his or her identity in accordance with a procedure prescribed by law, is considered to belong to a nationality under the law. The Act was amended on 13 February 2014 as a result of which the right to participate in the nationalities' self-government elections was restricted to Hungarian citizens while the introductory provisions of the law defining the personal scope remained untouched. However, this amendment is in line with the interests and aspirations of the nationality self-governments.
4. According to the latest comprehensive census held in Hungary in 2011 the number and ratio within the population of those declaring their national identity started increasing during the last couple of years. According to the census data, almost 6% of the population of the country (a total of 644 524 persons) have affiliation to a nationality. The proportion of persons declared to belong to nationalities has increased by 40% since 2001 in light of which the Hungarian policy on nationalities seems to be successful.
5. The legal framework created by the civic government, the subsidy system in support of educational and cultural autonomy and the generally accepting atmosphere of the majority have resulted in the increase of the number of persons freely declaring their nationality by approximately one and a half in comparison to figures shown a decade earlier.
6. More census data on nationalities can be reached at the website of the Hungarian Central Statistical Office (KSH) under the following link (available in English): http://www.ksh.hu/nepszamlalas/docs/tables/regional/00/00_1_1_6_1_en.xls.
7. For further statistics see also attachments no. 1 and no. 2.

Article 1

Question no. 2: Information on the definition of racial discrimination in domestic law, in particular

a. *Whether it encompasses discrimination based on race, colour, descent or national or ethnic origin*

8. Article XV paragraph 2 § of the Fundamental Law of Hungary specifies that “Hungary shall guarantee fundamental rights to everyone without any kind of discrimination and in particular without discrimination based on race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status”. Taking into consideration the principle of the hierarchy of laws, the quoted provision of the Fundamental Law must be complied with at all times by other sources of law as well as by the judicial practice of domestic court.

9. Furthermore, Act CXXV of 2003 on equal treatment and on promotion of equal opportunities (hereinafter: Equal Treatment Act) states in its Section 1 § that all persons in the territory of Hungary must be treated with the same respect. According to Section 8 § any difference in treatment based on, inter alia, race, colour, ethnicity or belonging to an ethnicity, language, social status or any other status, attribution or characteristic resulting in a less favourable treatment of these persons is to be considered direct discrimination and is prohibited by law.

10. As concerns labour law in particular, the Labour Code of Hungary explicitly sets forth the applicable general provisions on equal treatment, whereas the relevant specific principles are laid down in the Equal Treatment Act. The Act defines the various forms of breaching the equal treatment principle including the cases related to the field of employment. It provides that the equal treatment principle will be breached in particular when the employer discriminates against an employee through the adoption of provisions in the following areas:

- Defining eligibility criteria for work (conditions to fulfil a position, public advertisements);
- Provisions relating to procedures prior to employment which are aimed at establishing the employment relationship;
- Trainings during or prior to employment;
- In the course of defining and ensuring proper working conditions;
- Remuneration on the basis of work;
- Rules on the harmonization of workers’ and parents’ obligations and accessibility of parental leave or leave related to raising children.

b. *Whether direct as well as indirect forms of discrimination are included in the definition of racial discrimination*

11. Section 7 § of the Equal Treatment Act sets forth that direct and indirect discrimination (and in addition harassment, unlawful segregation, retribution and any instruction to these actions) constitute a breach of the principle of equal treatment. Indirect discrimination is defined in Section 9 § and reads as follows: provisions that are not considered direct discrimination and seemingly comply with the principle of equal treatment, however, put any persons or groups having characteristics defined in Section 8 § at a considerably larger disadvantage compared to other persons or groups in a similar situation.

Question no. 3: Information on measures to secure adequate advancement of groups and individuals protected by the Convention

12. The Equal Treatment Act allows for positive discrimination under certain circumstances: According to Section 11 § “an act aimed at the elimination of inequality of opportunities or at the promotion of social inclusion, deemed to be necessary on the basis of

an objective assessment, of an expressly identified social group is not considered as a violation of the principle of equal treatment if:

- It is based on an Act, on a government decree implementing an Act, or on a collective contract, and provided that it is effective for a fixed term or until a specific condition is met;
- It pertains to the election of a party's executive and representative body, or the designation of candidates to stand in elections held pursuant to the Act on the Electoral Procedures, and is implemented in line with the internal statutes of the given party."

13. For the purpose of the realization of equal opportunities, preparatory consultations have been initiated by the Hungarian government's labour market and training departments for developing measures that support the legislative framework of equal treatment in workplaces. The best practices and other relevant experiences of other countries related to workplace trainings are collected for further consideration in the process of trainings on employee sensitization.

14. Information on further measures taken in the specific fields are detailed below.

Article 2

Question no. 4: Information on the legal framework and policies to eliminate racial discrimination

15. See the information provided throughout the report.

Question no. 5: Mandate of the Equal Treatment Authority and the Commissioner for Fundamental Rights

The Equal Treatment Authority

16. The Equal Treatment Authority shall be responsible for investigating complaints filed for the violation of the principle of equal treatment and for implementing the principle. The Authority shall proceed in cases where clients allegedly have suffered discrimination. In light of the above, pursuant to Section 14 § (1) a) of the Equal Treatment Act, the main responsibility and activity of the Authority is to investigate individual complaints.

17. The Equal Treatment Act prohibits discrimination on the basis of protected characteristics. Protected characteristics are as follows: gender, ethnic origin, race, skin colour, age, mother tongue, disability, state of health, motherhood (pregnancy) or fatherhood, family status, sexual orientation, gender identity, social origin, financial status, religious or ideological conviction, political or other opinion, part-time status or fixed-term of employment relationship, membership in an interest representation organization or any other status.

18. The investigation covers all types of discrimination mentioned in EU directives (direct, indirect, harassment, segregation, retribution) and also covers the fields of education, goods and services, housing, social security, healthcare as well as employment on the basis of all protected grounds set forth by law — obviously covering discrimination on the grounds of ethnic origin, race and skin colour.

19. If it is proven in the course of the proceedings that the person or organization against whom the procedure is conducted violated the principle of equal treatment, the Authority may order that the unlawful situation be terminated, forbid the continuation of the violation, may order that its final decision declaring the infringement of rights be made public, impose a fine from HUF 50 000 to HUF 6 million. It is also noteworthy that prior to delivering a decision, the Authority shall make endeavour in all cases to reach a settlement of the dispute between the parties. If the parties show willingness and a settlement is reached which is in compliance with the law, the Authority shall approve the settlement in its decision. The method of enforcement of the settlement agreement is identical to that of a decision establishing the breach of the law. The procedure is free of duty, however, the

Authority may decide on additional procedural costs (e.g. costs of legal representation, or experts' fees) which are to be borne by the party whose responsibility had been established.

The Commissioner for Fundamental Rights

20. The Commissioner for Fundamental Rights (CFR) is responsible for the protection and promotion of fundamental rights with special regard to the rights of the child and disabled people. The Commissioner has two deputies: one of them is responsible for the protection of the rights of national minorities living in Hungary (successor of the Parliamentary Commissioner for national minorities), while the other deputy protects the interests of future generations (successor of the Parliamentary Commissioner for protection of the interests of future generations).

21. The mandate of the Commissioner and the deputies is defined by the Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter: CFR Act). The CFR is the single "A" status National Human Rights Institution, which is independent from the government and is subjected only to the provisions of the Fundamental Law of Hungary and the Acts of the Parliament. The National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) had been established as a separate department within the Office of CFR and started to operate on 1st January 2015.

22. The CFR is vested with quasi-judicial competence to hear and consider individual complaints against public authorities and other entities providing public services as well as to initiate investigations ex officio into the situation of a non-determinable group of people or the implementation of a particular fundamental right. In case of infringement, the CFR addresses a recommendation to the respective authority or the supervisory organ thereof which is obliged to inform him of its position on the merits of the recommendation and on the measures taken within thirty days. Furthermore, the CFR scrutinizes laws, bills and policies and makes proposals for amendment, modification or repeal. In compliance with the Paris Principles, the institution contributes to the promotion of human rights by the means of education, training and awareness raising activities as well as advocacy. The Commissioner works in close cooperation with other organisations whose activities are aimed at the promotion of the protection fundamental rights including the civil society. Regarding the international obligations of Hungary, the CFR promotes the ratification of international human rights documents and monitors their implementation (among others by the submission of alternative reports to the treaty bodies of the United Nations).

23. The Deputy Commissioner responsible for the protection of the rights of national minorities living in Hungary has tasks which are connected to (and support) the competences of the Commissioner regarding the rights of nationalities, and tasks which require the Deputy Commissioner to act individually. Supporting the tasks of the Commissioner, the Deputy Commissioner shall regularly inform the Commissioner of her experience regarding the enforcement of the rights of nationalities living in Hungary, shall draw the attention of the Commissioner to the danger of infringement of rights affecting nationalities living in Hungary, may propose that the Commissioner for Fundamental Rights institute proceedings ex officio, shall participate in the inquiries of the Commissioner for Fundamental Rights, and may propose that the Commissioner for Fundamental Rights turn to the Constitutional Court. Consequently, the Deputy Commissioner is not granted with the right of inquiry or the right to take measures individually which is balanced by a legal safeguard: the CFR Act prescribes that if the Deputy Commissioner makes a proposal that the Commissioner for Fundamental Rights institute proceedings ex officio or that he turn to the Constitutional Court, the Commissioner for Fundamental Rights shall be bound to act accordingly or to inform the Parliament in the annual report of the reasons for his or her refusal to do so. The seeming contradiction flowing from the partial overlap of the powers and tasks of the Commissioner and the Deputy Commissioner can nevertheless be resolved if the Commissioner safeguards nationality rights in a way that allows for the obligatory participation of his Deputy in such activities. Then, tasks which require the Deputy Commissioner to act individually are to inform the institutions concerned and the public of his or her experience regarding the enforcement of the rights of nationalities, to draw the attention of the institutions concerned

and the public to the dangers of infringement of rights affecting nationalities. It is also the task of the Deputy Commissioner to review the Government's social inclusion strategy and monitor the implementation of its objectives concerning the nationalities. The Deputy Commissioner may also propose the adoption or the amendment of the relevant legislation. Furthermore, the Deputy Commissioner shall promote, through her international activities, the presentation of the merits of domestic institutions related to the interests of nationalities living in Hungary at international level (as well).

24. The complexity of the topic of national minorities, as well as the different problems of the individual nationalities are demonstrated by the wide range of complaints. Some of the cases specifically concern issues related to the cultural autonomy of nationalities, however, the number of those cases which are connected to the enforcement of the principle of equal treatment is also rather high — these are typically related to the Roma minorities.

25. In 2017, 90 percent of individual complaints on discrimination falling within the mandate of Deputy Commissioner were submitted by Roma complainants. Similarly to the previous years, in 2017, in the area of nationality rights, the highest number of complaints were received, or the highest number of inquiries were launched ex officio in relation to public and higher education. Apart from the cases related to nationality education, the highest number of complaints concerned the lack of housing conditions, housing problems, as well as residential segregation. In the area of employment, 2017 saw an increase in the number of complaints as compared to the previous year, however, the number of petitions concerning public work decreased.

26. Romani women suffer multiple discrimination on the basis of their gender and ethnicity — among others — in access to healthcare and quality education. These result in poor level of awareness about reproductive health and rights, which is escalated by disadvantaged social status and geographical obstacles. Several programmes have been implemented in order to reduce the disadvantages faced by Roma women:

- Bari Shej provides support to at least 1780 young Roma girls to improve chances of further education and prevent early school drop-out;
- The representation of non-Roma women on the labour market is twice as high as the employment rate of Roma women. Growing Chance programme provides training and employment opportunities to 1100 Roma women;
- In order to raise awareness of the importance of healthy way of living and prevention, programmes have been implemented in the most disadvantaged areas.

Article 3

Question no. 6: Measures taken to prevent and avoid the segregation of groups and individuals protected under the Convention

27. The Hungarian National Inclusion Strategy accepted in 2011 considers the reduction of segregation as a priority objective. Accordingly, in the area of education and training, one particular area of intervention is the establishment of an inclusive school environment, which supports co-education, reduces segregation and breaks the cycle of passing on inherited disadvantages. Special attention is paid to integration in kindergartens and schools. Therefore Roma children's access to quality education is facilitated by the application of legal, financing and institutional measures and by a number of government actions. It is important to note, however, that because of the complex nature of the problem, we have to look for a solution in a wider context. This means that winding up the practice of segregation is necessary, but not enough in itself. A complex set of actions to promote success in school is required, to support the child and its family from the child's birth to the start of his/her employment.

28. In the field of education, the European Agency for Fundamental Rights (hereinafter: FRA) survey points out that from among the countries under analysis only Hungary (91%) and one more European country attained a result near to the targeted aim for participation in early childhood education in the Education and Training in 2020 Strategic Framework. In other countries less than half of the children participate in early childhood education in the

age group from 4 to the lower threshold of compulsory school age. From among children subject to school attendance obligation, almost everyone participates in education in Hungary (98%). According to the findings of the survey, segregation in schools is of concern in Hungary and some other European countries. The rate of Roma children attending schools where *each schoolmate is Roma* varies from 27% to 3% (in the case of Hungary it amounts to 8%). The rate of Roma children attending schools where *each schoolmate or the majority of them is Roma* (i.e. by adding the rate of schools with a Roma student majority to the previous data) is 61% in Hungary. The survey also underpins the findings that present the current situation in Hungary, according to which the ethnic composition of the schools may reflect the demographical characteristics of the region where the school is located. Even according to the Communication of the European Commission, education is the field where the greatest improvement can be observed. More Roma children receive early childhood education and care than before in the reviewed countries — 53% in 2016 as compared to 47% in 2011. In this respect the most significant progress can be experienced primarily in Hungary and three more European countries.

29. Specific government measures to facilitate the implementation of inclusive education are as follows:

Act CXCV of 2011 on National Public Education (hereinafter: National Public Education Act) and the Equal Treatment Act expressly prohibit segregation; any discriminative action taken by institutions (schools) or their operators are void. Considering the Commission's concerns in infringement procedure 2015/2206 on the interpretation and practical implementation of this prohibition — especially in relation to ethnic minority and church schools —, the Hungarian Parliament amended both acts on 13 June 2017. The amendment entered into force on 1 July 2017. With the amendment of the Act on National Public Education and the Act on Equal Treatment we strengthened the guarantees that prevent segregation, and inserted additional requirements to ensure the equivalent quality of ethnic minority education provided for Roma pupils. The aim of the amendment is to reinforce legislative guarantees of desegregation and anti-discrimination:

- Guaranteeing that indirect discrimination based on ethnic origin is prevented: religious education may not serve to legalise ethnic segregation (and vice versa);
- Reinforcing quality requirements of nationality education;
- Ensuring adequate information for the voluntary choice of parents.

30. The regulation on the districts for primary school admission facilitates the elimination of the undesired effects of the free selection of schools and the prevention of segregation. The objective is to prevent schools from segregating students based on their origin or social status. Therefore, when assigning the school district boundaries, the social and economic status of families living in the neighbourhoods of the school should be taken into account. With a view to avoiding unlawful segregation, further guarantees have been added to the Act on National Public Education as of January 2017: the educational district centre has been granted a right of approval in the decision-making process concerning the determination of the borders of districts. If the competent educational district centre does not agree with the decision on the borders of the district delivered by the authority performing tasks of public education, or does not express its approval within the stipulated deadline, the Minister of Education shall determine the district borders of school enrolment.

31. In the framework of these measures, the former Klebelsberg Institution Maintenance Centre was replaced in January 2017 by the so-called educational district centres, which operate as independent budget organisations. Instead of a single national centre, 59 educational district centres have been set up. As a result, the decision-making was brought closer to the affected parties. In addition, the Klebelsberg Centre as a medium-level administrative body stepped in between the educational district centres and the minister for education.

32. Each educational district centre employs an anti-segregation expert, who assists the state in organising local meetings and round-table discussions and in detecting and signalling problems. As of November 2017, one of the permanent working groups of the

educational district council is the anti-segregation team. The head of the anti-segregation working group prepares a report for the Minister of Education and the president of the Klebelsberg Centre on a yearly basis. Therefore, the tools required for monitoring by the Government have been established. Owing to the continuous data supply, the competent minister is kept informed at all times about the relevant information related to segregation at the level of educational districts. In addition, based on the evaluations provided by the Klebelsberg Centre, the Minister is able to monitor the development of anti-segregation processes, to make responsible and well-founded decisions.

33. Developments for desegregation involved in the Human Resources Development Operational Programme 3.1.5. ‘Supporting schools which are at risk of student drop-outs’ (hereinafter: EFOP 3.1.5.) help to prepare schools being at risk of segregation by methodological developments. The schools involved were selected by applying a segregation index, and schools involved in segregation court cases have been also selected to participate. The developments to foster desegregation measures and to strengthen inclusion policies will be implemented in these schools through the following measures. The concept relies on the Guideline on desegregation measures issued by the European Commission.

a. *Strengthening the retention capability of public education institutions*

- Ensuring equal opportunities for permanently underperforming schools and institutions affected by segregation;
- Targeted development of pedagogical programmes of public education institutions including complex pedagogical methodologies contributing to the prevention of school leaving without qualification.

b. *Improving the accessibility of quality education, strengthening public education institutions in compensating disadvantages and creating opportunities*

- Preparation and support of the management of schools (school leaders);
- Methodological preparation of teachers to apply pedagogical principles and methods laid down in the renewed education programmes of institutions effectively;
- Ensuring human resources in the institutions.

c. *Desegregation, enhancing access to quality, inclusive education*

- Introduction of innovative pedagogical tools and methods, common trainings for professionals of different sectors (education, social, public administration, etc.);
- Planning and implementing action plans, facilitating smooth access to quality, mainstream schools.

34. The tender is to be implemented until 2020 from EU funds with a limit amounting to HUF 12.9 billion. The project covers 300 schools (locations where public education institution tasks are performed), and involves the development of complex desegregation institution development and pedagogical services.

35. Based on the provisions of the Equal Treatment Act, in Hungary, each local government has to develop a so-called Local Programme for Equal Opportunities (HEP), in the framework of which they analyse the situation of disadvantaged groups, including the Roma, and make an action plan to deal with the detected problems in the area of education, as well. The production and the regular revision of HEP is a pre-condition of access to EU and budgetary resources. Therefore more than 3100 towns have HEP, the ratio of revisions is 90% in the proportion of the time. HUF 1.2 billion is available from EU funds to extend professional support to the tasks of local governments.

Programmes to avoid and prevent segregation in housing

36. With regard to the housing conditions of the Roma population, the problem that needs an urgent answer is the situation of citizens living in segregated areas. Subsequent to the national model program that was implemented in 8 locations in 2011, in 2012–2013

work was started in the form of 38 complex programs for zone settlements, which was extended with an additional 17 settlements in 2014 owing to the raised limit of resources. From 2012 to 2015/16, 55 complex programs for zone settlements were implemented in 67 segregated areas. 5,000 persons were involved in the project. More than 2,700 people completed the training programmes successfully; 61% of them were Roma citizens.

37. The implementation of the complex program requires both human and infrastructural interventions. Housing elements were realized in segregated areas enjoying the constant support of social work, which was coupled with solid national methodological coordination and monitoring. Renovation or building work was carried out in 8 settlements, in 112 dwellings (39 newly built; 73 renovated). The housing conditions of about 500 members of almost 125 families were improved.

38. In the 2014–2020 programming period — as per the provisions of Hungary’s Partnership Agreements and with the use of EU funds — we intend to implement interventions to improve the local population’s situation and to promote their integration in one in every seven segregated areas. The process involves several operational programs.

39. The Human Resources Development Operational Programme (EFOP) supports complex programs for zone settlements in settlements other than towns or cities. Besides EFOP, there are two other operational programmes targeted at the integration of people living in segregated areas, in the framework of social town rehabilitation programmes. The Territorial and Settlement Development Operational Programme (TOP) focuses on segregated areas in towns and settlements other than county-level towns and cities, while the Competitive Central Hungary Operational Programme (VEKOP) is targeted at segregated areas in the capital and Pest County.

40. Under EFOP, with a view to facilitating the social inclusion and integration of disadvantaged people living under the poverty line in segregated neighbourhoods, in 160 settlements 34,000 people are expected to have access to a new complex program with a budget of HUF 21.31 billion. HUF 22.85 billion will be allocated for infrastructural developments and for better housing conditions for those living in such settlements, while another 2.2 billion HUF will be available for the technical and methodological support of regional inclusion programs and the coordination of their tools. The aim is to incorporate the services, whose lack has been detected by the ‘Presence’ Program, into the social protection system, and to promote sustainable social housing through our projects.

Article 4

Question 7: Information on the legislative, administrative and other measures taken to prohibit

a and b. All dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination

41. In 2012, the Parliament adopted Act C on the Criminal Code (hereinafter: CC) taking effect on 1st July 2013, which replaced the former Act IV of 1978 on the Criminal Code. The new Criminal Code introduced some new elements regarding hate crimes resulting in a stricter regulation as before.

42. It also must be highlighted that the CC punishes hate crimes committed against any group of the population who might be discriminated against based on any social or personal characteristics, including race.

43. The specific hate crime offences are — without mentioning general anti-discrimination laws on genocide and other international crimes — the following:

- Violence Against a Member of the Community (section 216 of the CC);
- Incitement Against a Community (section 332 of the CC);
- Public denial of the crimes committed by the National Socialist and Communist regimes (Section 333 of the CC);

- Use of Symbols of Totalitarianism (Section 335 § of the CC).

44. As concerns the crimes of Violence against a Member of a Community (Section 216 §) and Incitement against a Community (Section 332 §), the CC does not only name national, ethnic, racial or religious groups against whom these offences may be committed but it explicitly provides protection on the ground of other protected characteristics such as sexual orientation, gender identity or disability. However, the list is not exhaustive.

45. Another significant amendment to the CC regarding Incitement against a Community was introduced by the Act CIII of 2016. The rationale behind this amendment is to be found in the 4th Amendment of the Fundamental Law of Hungary, which completed the provisions on freedom of expression and opinion. Besides, the amendment was also necessitated by the European Commission's finding claiming that Hungary did not comply with the rules of the 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.

46. The new sections (4) and (5) of Article IX of the Fundamental Law read as follows:

“(4) Exercising the freedom of expression and opinion cannot be aimed at violating other persons' human dignity;

(5) Exercising the freedom of expression and opinion cannot be aimed at violating the dignity of the Hungarian nation or the dignity of any national, ethnic, racial or religious group. Members of such groups are entitled to bring action before the court — as defined by law — against any statement considered injurious to the group alleging violation of their human dignity.”

47. For the above mentioned reasons Act CIII of 2016 amended the criminal offence of Incitement Against a Community by expressis verbis including incitement to violence in addition to incitement to hatred, moreover, it specifies not only certain group of populations as victims, but explicitly mentions individuals within a given group, as well. The amendment entered into force on 26 October 2016.

48. As concerns the offence of Violence against a Member of a Community (section 216 § of the CC) Hungary submits that its scope extends to incidents even before an actual physical attack against a person would take place. Therefore displaying a conspicuously anti-social conduct is punishable if it is capable of inducing fear or anguish in members of the offended group in question, thus, on the one hand, it is not even necessary to display the anti-social behaviour against a member of the group, it is enough, if the target of the action is an object (e.g. a vehicle parking on the street), and on the other hand, it is not necessary for the purposes of establishing the crime that the action actually result in fear in the members of the offended group, it is enough if the action is only capable of having such result. Such behaviour, if committed in public, can result in inducing fear or even hatred in other people (e.g. using degrading and hateful phrases while displaying anti-social conduct), or it can incite other persons to participate in violence (e.g. inciting or attempting to incite other to similar behaviour).

49. Regarding actual physical attacks, the second paragraph of Section 216 § on Violence against a Member of a Community is relevant which renders punishable the act of assault and coercion (compelling another person by applying violence or threats to do, to not do or to endure something).

50. The perpetration of the crime of Violence against a Member of a Community is punishable even more severely, if it is committed:

- By force of arms;
- Armed with a weapon;
- Causing a substantial damage of interests;
- By the torment of the injured party;
- As a group; or
- As a criminal conspiracy.

51. However, if for any reason the *sui generis* criminal offence cannot be established, the court can still take into consideration the bias motive in the context of other criminal offences (e.g. homicide, battery, violation of personal freedom, libel) committed with malevolent motivation or intent as these constitute an aggravated crime in case of certain offences; therefore there is a possibility to impose a more severe punishment. Acts motivated by racism or other bias motive always qualify as an offence with malevolent motive or intent. If the malicious motive does not form part of the legal definition of an offence *de jure* (e.g. vandalism), the court can still consider the racist motive as an aggravating circumstance when imposing a punishment, provided that it is proven beyond reasonable doubt.

52. As concerns the offence of Public Denial of the Crimes of National Socialist or Communist Regimes it must be noted that its legal definition has been supplemented with a new type of act of commission, therefore it is now punishable to attempt to justify genocide or crime against humanity committed by the national socialist or communist regimes.

53. The rationale behind this amendment was on the one hand the 4th Amendment to the Fundamental Law, and on the other hand the fact that the Constitutional Court re-examined section 269/C of the former CC, and in its Decision No. 16/2013. (VI. 20.) established that it does not violate the rules of the Fundamental Law of Hungary. The Court explained that the criminal provision is constitutional because it protects human dignity of the victims of the totalitarian regimes and their relatives as well as persons committed to democratic values, it further serves the protection of the society's commitment to the fundamental ideas of constitutionality and lastly it serves the protection of public order as manifestation of constitutional values and goals as a whole. The Constitutional Court also highlighted the significance of the 4th Amendment which prohibits the abuse of freedom of expression and opinion. The Court established in this regard that the denial of crimes of national socialist and communist regimes constitutes an abuse of the freedom of expression and opinion, and that statements like these run counter 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 anger by awaking public indignation and shocking others potentially leading to serious public disturbance.

54. The criminal offences of Incitement Against a Community (Section 332 § of the CC), the Public Denial of the crimes committed by the National Socialist and Communist regimes (section 333 of the CC), and the Use of Symbols of Totalitarianism all require that these acts must be committed in front of a large public audience. The Criminal Code does not define the exact concept of large public audience; it only lists certain criteria which should be taken into account when considering if a crime has been committed in front of a large public audience. A crime qualifies as committed in front of a large public audience if a relatively large number of people are present or at the time of the commission of the crime not that many people were present, but — with regard to its specific place, time and manner — there was a real possibility that a larger or beforehand indeterminable number of persons could have learnt about the crime. It does not matter whether the persons become aware of the statement when they are in a group or isolated meaning that the crime will be established to have been committed in front of a large public audience if the same punishable statement is sent to several persons in a closed letter. According to the explanatory provision of the CC, a crime committed in front of a large public can be established every time when the statement is made through radio or television broadcast, newspaper, electronic medium (e.g. internet) or reproduction. The Hungarian regulation does not limit the types of mass communication devices (e.g. pamphlets, pictures), but rather broadens the possibility to include any kind of medium. So, the punishable statement can be made either orally or in writing through any kind of means of information technology.

c. *The provision of any assistance to racist activities, including the financing thereof*

55. Preparatory actions, including financing, are punishable related to the offence of Violence against a Member of a Community thus any person who provides the means necessary for committing or facilitating it, and who invites offers or undertakes to commit

the crime, or agrees to commit it in a group with others shall be punishable (see Section 11 § of the CC). Aiding and abetting is also punishable (see Sections 13 and 14 §§ of the CC).

d. Organizations, as well as organized and all other propaganda activities, which promote and incite discrimination

56. Act XL of 2011 purports to prevent the formation of organizations without any legal basis and statutory control while giving an illusion of someone acting in official capacity. Therefore, the Act introduced a new criminal offence, namely “Unlawful Organization of Public Safety Activities” criminalising such conducts.

57. 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 and the potential harassment of members of certain minorities.

58. It must be noted that the CC also includes a criminal offence in Section 351 § on the abuse of the right of association, which renders punishable:

- (a) The participation in the leadership; and
- (b) The participation in a manner capable of disturbing public peace;

In an association that has been dissolved by the court. Furthermore it is also punishable to provide the conditions necessary for or to facilitate the operation of such associations.

59. It is also noteworthy that the growing tendency of crimes related to extremist organizations and vigilante patrols, as per the Supreme Court’s opinion, may be considered as an aggravating factor in the course of imposition of penalties: “The growing number of certain criminal offences shall be considered as an aggravating circumstance if the number of criminal offences identical or similar to the one that is being adjudicated shows a significant growth in comparison to the previous period (at the time of the perpetration), or this number is significantly higher in a given area than the average.”

60. In recent years the rules on participating in dissolved associations has also become stricter in the law on misdemeanours, now allowing for confinement and the amount of fines to be imposed has also been increased.

61. Moreover, the Act on Misdemeanours also sanctions illegal conduct of public safety activities.

e. Measures taken to prohibit public authorities or public institutions from promoting or inciting racial discrimination

62. The CC does not prescribe for any specific rules or specific criminal offences regarding members of public authorities or politicians committing verbal (or physical) hate crimes. Thus, the general rules apply to them, as well.

63. However, the Hungarian Parliament adopted an amendment to the Act on the Parliament (Act XXXVI of 2012) on 17 December 2012 that grants certain tools (call the speaker to order, exclusion from the session) to the Chairman of the Parliament, the President of the Parliament or the Parliament against members of the Parliament, if they use a flagrantly offensive language regarding an individual or group of people — especially those belonging to national, ethnic, racial or religious communities during a plenary session or a committee meeting. The amendment was prompted by an incident when a Member of Parliament made an expressly Anti-Semitic comment.

64. The Government of Hungary is committed to the promotion of freedom of expression and through its legislative and policy framework is dedicated to eradicate hate speech. Both Hungarian legislators and practitioners reject and stand by sanctioning any form of anti-Semitic, anti-Roma or other kind of prejudice and racism. The police do its utmost to fight against racist or other malicious offenses within the framework of the law. It is unfortunate that there is a high rate of crime latency. The sensitizing, confidence-building effect of ongoing training programs can help revealing the actual scale of such crimes. Trainings on hate crimes contribute to the police forces’ conscious and supportive

communication with the victims, which together with the victim protection programs can successfully combat racist incidents in initiating swift criminal proceedings. In order to reduce the latency of anti-Semitism-related incidents, the police present a model of conscious behaviour to its officers that supports the effectiveness of crime prevention and to address potential perpetrators in order to deter anti-Semitic offenses. The police have specific training and educational materials on target groups and, prepared in contribution with educational institutions and NGOs.

65. The National Police Headquarters has developed a special curriculum for effective action against hate crimes in January 2012. As a result of the coordination at the national level, staff members have been appointed from the staff of the county departments who can perform tasks related to the area's specialization tasks. The specialised professionals of the National Police Headquarters in hate crimes, together with the Hate Action Group (NGOs involved in fighting hate crimes and supporting its victims) have developed and approved the Prejudice Indicators document, the practical implementation of which is ongoing and is likely to have a beneficial impact on investigative effectiveness in these types of offenses. The Action Group works in collaboration with the National Police Headquarters to develop protocols, to improve professionalism, effectiveness and efficiency of investigations.

66. The current curriculum frameworks for police officer trainings already include relevant subject requirements and competency requirements needed to be strengthened among students in order to develop proper self-control, tolerance and non-prejudicial thinking.

67. The Prejudice Indicators, approved and used by the National Police Headquarters' hate crime specialised professionals help to identify the offender's bias motive. The list drawn up on the basis of international standards enumerates objective facts and circumstances from which one can conclude that a criminal offense has been committed in whole or in part with prejudicial motive. Indeed, the indicators alone do not demonstrate the prejudicial motive, but the presence of a single indicator already requires the investigation to cover the existence of any potential prejudicial motive. At the same time, if no indicator is present, this does not mean that the existence of prejudicial motive can be excluded. Indicators are a useful tool in planning investigative actions. If suspicion of a prejudice arises, all indicators must be disclosed, documented and included in the motion and indictment thus facilitating prosecution and court work to substantiate motivation. Indicators may subsequently become indirect evidence and the full disclosure of evidence is a legal obligation.

Question 8: Information on whether racial motives are considered an aggravating circumstance under domestic legal legislation

68. Criminal offences motivated by racism or other bias motivation always qualify as an offence committed with malevolent motivation or intent; therefore there is a possibility to impose a more severe punishment. In addition, if the perpetrator commits a crime where the malicious motivation is not an aggravating circumstance explicitly mentioned in the definition of the offence, the court can consider the racist motive as an aggravating circumstance when imposing a punishment. In any case, however, the bias or racist motive must be proven beyond reasonable doubt. In addition to these legal provisions, the CC provides for specific rules among its sentencing principles. Punishment, with due consideration of its intended objective, shall be imposed within the framework provided for by this Act, in a manner consistent with the severity of the crime, the degree of culpability, the danger to society represented by the offender and with other aggravating and mitigating circumstances. A bias motive is always considered to be an aggravating circumstance either de jure or in practice. We can say in general that a motive based on racism, anti-Semitism, homophobia or xenophobia always serves as a basis for imposing stricter sentences.

Question 9: Statistics

69. The Supreme Court has established the following tendencies from the perspective of sentencing practices of courts:

- For the offence of public denial of crimes committed by national socialist and communist regimes usually a measure (probation) or a small amount of fine is imposed;
- For the offence of incitement against a community, it is typical to impose fines or community work;
- Enforceable imprisonment is usually applied if a qualified form of the offence of violence against a member of the community is cumulated with another type of offence, however, even in these cases, it is more frequent to suspend the enforcement of the penalty.

70. See also attachments no. 3 and no. 4.

Article 5

Question 10: Information on measures taken to ensure full enjoyment of the rights enunciated under Article 5 of the Convention to members of ethnic minorities, in particular

a. *Measures taken to prevent any discriminatory or racist statements by public officials, the media or members of political parties against groups protected under the Convention, in particular by Roma*

71. Article XV Paragraph (2) of the Fundamental Law on the right to equal treatment together with the Equal Treatment Act form the framework of protection against discrimination in compliance with our international obligations.

72. Further guarantees are included in sectorial acts. Act V of 2013 on the Civil Code (hereinafter: Civil Code) introduced a new legal institution related to the protection of personal rights. Under Section 2:54 § (5) of the Civil Code “Any member of a community shall be entitled to enforce his personality rights in the event of any false and malicious statement made in public at large for being part of the Hungarian nation or of a national, ethnic, racial or religious group, which is recognized as an essential part of his personality, manifested in a conduct constituting a serious violation in an attempt to damage that community’s reputation, by bringing action within a thirty day preclusive period.”.

73. As concerns racial discrimination in particular, the Hungarian government is committed to offer efficient protection against hate speech for different social groups through its criminal law legislation, which has already been presented in details. Besides, the Hungarian media law expressly prohibits publishing press and/or media content that incites to hatred and 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.

74. Therefore our legislative framework affords protection to groups protected under the Convention against any discriminatory or racist statements by any persons including public officials, the media or members of political parties.

b. *In the enjoyment of the right to work by minorities*

Action Plan on Corporate Social Responsibility

75. In April 2015, the Government of Hungary adopted an Action Plan related to Corporate Social Responsibility and thereby identifies the priority areas wherein it intends to promote, by way of specific measures, that enterprises assume more responsibility for the economic, social and environmental development of Hungary. The Action Plan is intended to concentrate government measures on the one hand, and permits enterprises, while respecting their freedom of choice, to harmonize their actions for social responsibility with the government priorities, on the other hand. In the second area of the vertical priorities, in the priority area of labour and equal opportunities, the key action shall be focused on

promoting the employment of disadvantaged groups and those displaced from the labour market.

76. The National Employment Non-profit Limited Liability Company (OFA) started a programme in April 2014 to provide disadvantaged groups with a forum, where employers and NGO's discuss how enterprises can make their workplaces suitable, in even bigger ratios, for employing disadvantaged groups (women, elderly, young, partially incapacitated, elderly employees, people with low school qualification, Roma), how they can put an end to potential discrimination in employment. OFA provides training for small and medium-sized enterprises on corporate social responsibility (CSR), and furthermore, the organization promotes non-discriminatory employment in Hungary by translating and communicating of professional materials to the small and medium-sized enterprises. In 2016 OFA opened an invitation to a tender to encourage employers with a reward for developing worker and family-friendly workplaces, in three categories: micro and small enterprises, medium and large enterprises and the public sector.

c. Measures taken to provide adequate housing to all minority groups living in the State party

77. See also answers detailed under Question 6 (Programmes to avoid and prevent segregation in housing).

d. Measures taken to guarantee equal access to health services

78. In the framework of the Swiss-Hungarian Cooperation Program, in the regions of Northern Great Plain and Northern Hungary, 4 praxis communities were formed (with head offices in Berettyóújfalu, Jászapáti, Borsodnádásd, and Heves) involving 24 primary care practices. The aim of the program was to form and test a primary care model with local and national minority councils, local health and social services and medical faculties, focusing on prevention, community-orientation, involving local communities — particularly Roma people —, and on caring patients with chronic illnesses, and furthermore to prepare additional recommendations for the health policy.

79. Priorities for the Roma people living in the praxis community:

- Accessing primary care, increasing equal opportunities and quality of life;
- Increasing community orientation, which involves local Roma communities as well;
- Roma mother-child health program, training Roma assistant health guards etc.

80. According to Hungarian legislation those who pay contributions on grounds of their professional activities are deemed insured, so they have the right to both in kind and cash benefits. The rest of the resident population is entitled to health care in the framework of the mandatory health insurance.

81. By virtue of the Hungarian legislation the insured (contribution payers) are as follows:

- Employees, civil servants, employees of the administration of justice professional adoptive parents, members of the armed forces including law enforcement bodies as well as civil national security services, regardless of whether they are employed full-time or part-time;
- Self-employed persons, company members and members of co-operatives;
- Apprentices on vocational training under a study contract;
- Beneficiaries of unemployment benefits;
- Farmers and clergymen.

82. Additionally, the mandatory health insurance extends to the following groups of entitled persons:

- Pensioners;
- Beneficiaries of periodical social security benefits or pension provided by a Church;
- Persons under 18 legally resident in Hungary;

- Pupils of secondary schools and university students;
- Detainees;
- Socially disadvantaged and homeless people.

83. Access to health care is regulated by the aforementioned rules which do not make in any way a distinction in terms of minorities. Everybody has equal opportunities in terms of access the health care system of Hungary. In order to cover the health care costs of the above categories, the State contributes a yearly allowance to the health insurance fund, paying a per capita amount for those who are covered by the health insurance scheme without the obligation of paying contributions. Those who are not insured or entitled to health care by law can obtain right to the health insurance services by paying a flat-rate contribution set by law.

e. Measures taken to ensure equal access to education

84. The aims of promoting inclusive mainstream education are to improve the school success rate, prevent early school leaving of vulnerable students' groups — pupils with disadvantages and multiple disadvantages, including Roma students. Measures for vulnerable student groups at risk of drop-out aim that training opportunities must provide a learning path and should flexibly fit in the different learning experiences and needs of the individual students. Anti-discriminative measures aim desegregation and improving the access to quality mainstream education.

85. The role of the public and higher education system to reduce inequalities and the consolidation of inclusive education are supported by systemic measures (e.g. the strengthening of skills and key competences, the operation of a pre-signalling system against early school-leaving, pay-rise for educationalists, the provision of a next generation of educationalists, teacher training).

86. In purpose of the inclusion of children with disadvantages or multiple disadvantages, several programmes have been put in operation starting from day-nurseries to the labour market.

87. The Sure Start Children's Centres Network has been in operation since 2003 for the provision of education of early childhood abilities. The initiative that originally started as an EU development has by now become a service that is financed from the national budget and is regulated in the Child Protection Act. In the framework of this service, the parent — in the presence of his/her child (of usually 0–3) — learns what should be done to ensure the healthy development of his/her child, and is assisted in strengthening the competences necessary to lead an independent life. The aim is to ensure the healthy development of children with advantages or multiple disadvantages (including Roma children), compensate their 'lagging behind' and improve their parents' childrearing competences. The service is taken advantage of together by the parent and the child under kindergarten age.

88. While in 2012 there were only 42, in 2018 as many as 110 children's homes were in operation, relying on central budgetary funds. Children's homes are regularly visited by approximately 2500 young children on a yearly average, with their parents. The current extension of Sure Start Children's Homes is built on EU resources.

89. In settlements of less than 1000 inhabitants, community spaces are created from EU funds for people between 0–25 years of age, which may be accompanied by service provision based on demand and necessity.

90. Mandatory kindergarten education was extended in September 2015 by lowering the age threshold from the previous age of 5 to 3, to promote the children's success at school. The ratio of children participation increased in each age group: 84.4% of children at the age of 3, 95.1% of children at the age of 4, and 95.8% of children at the age of 5 participate in kindergarten education in 2017/2018. 91% of Roma children go to kindergarten, and this ratio is close to that of the non-Roma children, and the highest in the region.

91. Kindergarten developments for high-level and inclusive kindergarten education: In the Hungarian public education, the kindergarten development programme is one of the pedagogical frameworks that relies on integrated education. Children with disadvantages

and multiple disadvantages, and mostly of Roma ethnicity are taught together in a single group with children or students belonging to the majority. The EU funds available for this development amount to HUF 4.2 billion, which allows for the development of 550 kindergartens in 4 educational years.

92. Free meal is available for children: 77,2% of children in pre-schools got free meal or meal at a reduced price (as social benefit) in the 2015/2016 school year. This ratio raised to 78,4 % in the 2016/2017 school year.

93. In order to avoid and prevent school segregation and selection mechanisms, primary school districts have been regulated. When determining the school district boundaries, the socioeconomic status of families living in the surroundings of the school should be taken into account. The revision of school district boundaries is carried out each year. In order to make this measure more effective and enforce the subsidiarity principle, from 2017 January state school maintenance centres have the right to submit their opinion before the school district boundaries are assigned by the governmental authorities.

94. In order to promote the right to education, eliminate indirect discrimination and implement the judgment of European Court in the case of *Horváth and Kiss v Hungary* (29/04/2013) and ensure the right to access to quality education of children with special educational needs, outdated IQ tests have been replaced with modern, internationally known and widely used tests (WISC-IV test). Due to continuous developments, ratio of students classified with mild intellectual disability decreased from 2% (2005/2006 school year) to 1,5 % (2017/2018 school year).

95. New diagnostic tests and diagnostic and therapeutic protocols have been prepared and implemented for successful identification, placement and programming for children and students with special educational needs since 2013.

96. The committee of experts (professional diagnostic 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, and shall make suggestions for the method, form and place of education. In the case of initiating the examination of the child/student with multiple disadvantages, the so-called "equal opportunities expert" can be present at the examination. At the beginning the diagnostic process, the parents can make a voluntary declaration in connection with the child's ethnicity.

97. The committee of experts informs the parent based on the list of institutions where his child with special educational needs can take part in early development and care, kindergarten education or developmental education and fulfil compulsory education. The parents can select the educational institution that provides appropriate education for students with special educational needs on the basis of the relevant committee's expert opinion, taking the needs and the possibilities of parents and children into consideration. The committee of experts shall conduct a review procedure *ex officio* one academic year later. The expert opinion must be reviewed *ex officio* in every second academic year after the first *ex officio* review until the academic year in which the student reaches the age of 10, respectively in every three years thereafter and until the academic year in which the student reaches the age of 16.

98. The early warning and pedagogical support system was introduced in November 2016 in order to prevent drop-outs. 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, home-schooling, social factors, etc. The aim of the system is to have a comprehensive view of the student's needs and ensure that students at risk receive the tailored support they need. It covers relevant education levels up to ISCED3, furthermore, is supplemented and combined with the data available from the results of yearly national assessment of basic competences tests. Pedagogical support for teachers is also an integral part of the system in order to develop and adapt effective methodologies and skills to meet the needs of individual pupils. In case of high share of students at risk of drop-out and low achievement, schools must reconsider and improve

their pedagogical and school management tasks. The operation of the ESL early warning system is the task of the pedagogic-professional services. The system is operating and collecting data on a local, institutional and county level thus the data can be analysed on several levels — institution/site, regional, national — and can support more exact planning of the interventions. Students' data are processed on school/school district level in an aggregate form. The first data-gathering period was closed in 2017, data processing is still in progress. First results show, that 100% of schools supplied data in the early warning system and preventive measures addressed mostly in-school activities: improvement of teaching activities, applying individual development plans for students at risk, mentoring activities, cooperation with social workers, psychologists, etc.

99. Between 2013 and 2017, 177 new public educational textbooks were published within the framework of the TÁMOP-3.1.2-B (SRÖP) construction. As a result of a new initiative, a working group was set up from among the experts working for the Department of Romology at the University of Pécs, who — in cooperation with the Eszterházy Károly University Institution for Educational Research and Development — checked the contents of the newly developed textbooks from the point of view of the representation of the Roma population (their history, culture, traditions, values etc.) The expert group reviewed 278 books, and made 145 proposals for changes. 60 publications had already been altered by the end of 2017 and the cooperation is to be continued through the implementation of the public educational textbook development plan of 2018–2020. Similarly, to the cooperation in the field of Roma-related contents in public educational textbooks, experts of the Jewish Community Roundtable were involved in the development of the new generation of public educational textbooks throughout the whole project. 83–86 % of their observations and proposals for corrections have been accepted and integrated into the finalised version of the books. Most of the alterations were made in history and literature books.

100. In 2017 — following a series of consultations with stakeholders, including the Education Authority and the Eszterházy Károly University (as the organisation responsible for publishing public educational textbooks), as well as representatives of nationalities and professional organisations working in the field of educating pupils with special needs — a three-year plan was drafted and agreed upon as for the publication of textbooks between 2018–2020. A proposal was prepared for and is to be submitted to the government including the development and publication of 894 new titles (including textbooks, workbooks and digital teaching materials). Out of the total of 894, 280 titles (31 %) is targeted at minority education, whereas 237 (27 %) are to be used by pupils with special educational needs. Implementation of the plan started in 2018.

101. To improve the effectiveness of the education system a teacher's career model was introduced in 2013. It provides clearly delineated tools to support, develop and assess the continuing professional development of teachers. One of the tools is the regular external professional inspection and evaluation — with the criteria of inclusive teaching methods — based on uniform and public criteria and a teacher qualification system with a teaching career path. Wages are adjusted to the different stages of the career model, and a professional service system has been created to promote teachers' development and career progress. Higher salary for teachers who are applying inclusive teaching methods with socially disadvantaged children and students was introduced from January 2018.

102. Hungary participates in the IN-SCHOOL project of the Council of Europe and the European Commission in order to strengthen inclusive education approach in practice and in system level as well.

103. The following special programs are operated and developed with a focus on disadvantaged students, including the Roma:

- Support is provided to “Tanoda” complex educational programmes, and the program has been extended. The project provides assistance to schoolchildren living in financial deprivation and under poor social conditions in the form of remedial activities in the afternoons. The programme offers a complex service that otherwise cannot or can scarcely be accessed by marginalised children or young adults who are less successful at school. It improves student performance at school already on the short term. The Tanoda programmes have been operating since 2004. Currently,

more than 280 Tanoda schools are operated from EU funds totalling HUF 7.35 billion, with the involvement of at least 8500 students. The medium-term objective is to provide financing from the national budget, when the EU tenders are closed;

- For the success of Roma girls at school and in order to keep them at school, a new programme (Bari Shej) was launched in October 2015. Its objective is to reduce early school leaving and to improve chances of further education. The target group comprises of — primarily Roma — girls at the age 10–18, who attend primary or secondary school and carry the risks of drop-out. The programme continued in 2016 financed from the national budget, and after its closure a several year-long programme was started from EU funds, which in 2017 reached out to as many as 1800 students;
- The For the Road (Útravaló) Scholarship Programme (Road to Secondary School, Road to School-leaving Certificate, Road to Vocation), which has been operating for ten years, offers personal mentoring services and scholarship for children studying in primary and secondary schools. As a result, we helped approximately 13 thousand students in the past school-year. 7700 mentors are involved in the programme;
- The “Road to a Degree” inclusive scholarship and financial assistance programme aims at improving the chances of disadvantaged students and those with multiple disadvantages, particularly Roma students, to obtain a higher education degree. In the school year 2017/2018, the number of students who received a grant was 1043 in total;
- Go one step higher initiatives to strengthen further education: the objective is to increase the number and the rate of disadvantaged students and students with multiple disadvantages who obtain secondary school qualifications, and to promote their access to higher education. The available budget is HUF 3.5 billion;
- Disadvantaged students and students with multiple disadvantages are supported in obtaining a school-leaving certificate, learning a profession or getting into higher education or the labour market under the Arany János Talent Management Programme, the Arany János College Programme and the Arany János College - Vocational School Programme. The programmes offer complex assistance (pedagogical, social, cultural and health-related) to students. Approximately 4000 disadvantaged secondary school and secondary vocational school students are involved, approximately 30% of whom are Roma. The quantitative examination of the success rate in 2014 found that about one-fourth of the students would have continued their studies at a lower level or not at all without these programmes;
- Christian Roma College Network: For the inclusion of the Roma people, the training of intellectuals who will build the future is of high priority, and the talent management training programme in specialised colleges may support this. Specialised colleges support the successful studies of Roma students at universities not only with financial aids, but by teaching the values and the history of the Gipsy culture, which strengthens the positive self-image, has a community-building effect and thus indirectly helps the development of identity. Currently 11 colleges operate in 9 towns, with 325 students. Until the end of school-year 2016/17, 158 students got 231 BA/BMA diplomas, and 90% of them got employed. This initiative, which is unique even at the European level, is a good example that proves that the state, the churches and the universities can work together, in a coordinated and efficient way, with the purpose of reaching common objectives — in this case, objectives related to inclusion;
- School-desk recharged — Second Chance programmes: the objective is to lead young people of school age but without secondary school qualifications back to their studies, and to support them in obtaining a school-leaving certificate and vocational qualifications. The available budget is HUF 1.5 billion.

f. *Measures taken to ensure non-discrimination against children belonging to minority groups, in particular with regard to the removal of children from their home environment and the State child care system*

104. In Hungary, the removal of a child from its family is the ultimate tool for protecting the child, which measure can only be enforced while respecting the principle of gradualism. In accordance with the Convention on the Rights of the Child, the child protection and guardianship laws, in accordance with the above-mentioned principles, are in conformity with the principles of municipal and state responsibilities, the purpose and implementation of child welfare services and the provision of child protection services, the monetary and in-kind benefits and the duties, powers and procedures of guardianship authorities. Removal of the child exclusively from a financial point of view with his family is clearly a violation of the law, so the use of remedies and the possibility of judicial review provide an adequate opportunity to intervene in such cases.

g. *Measures taken to address the situation of women*

- “Nő az esély” program (Promote Women’s chances).

105. As per the referendum in 2011, the school-based disadvantages Roma women have to face in Hungary is still significant as compared to their male counterparts. The proportion of women without primary education is still much higher (27%) than among men (19%), and an even a lower number of them get admitted to secondary education where the school does not issue a secondary school certificate. This ratio is 10% for women, and 17% for men. Regarding the attendance of higher educational institutions and those issuing a secondary school diploma, the data of Roma women and men are balanced. Still based on the referendum data, the labour market shows an even more unfavourable situation for Roma women against their male counterparts. Roma women are the force reserves of Hungary and also of Europe, who can turn the devoted work they do for their families into benefits for the country, and can be important players on the labor market if they receive the opportunities and trust.

106. Measures targeted at the elimination of gender-based employment inequalities are just as important. As part of them, in the framework of the training and employment program for Roma women, which ended in 2015, 1012 Roma women acquired vocational qualification in one of the following fields: kindergarten teacher, caregiver and educator of young children, pediatric intensive care nurse, social care provider and nurse, social work assistant. As a result of the program, 499 of those trained were employed in the social- and child welfare system.

107. As of 2016 the program has continued funded from EU resources. The immediate employment of the people involved makes it possible to quickly integrate them into the employer’s institution, and from the first moment helps them to get familiar with the colleagues and the environment where they are going to work full-time after completing the training. The program is implemented in the form of two projects — a special and a tender project. In the framework of this, the training of 1,100 Roma women (900 + 200) will be carried out, all embedded into the employment system. Their supported employment of 24 months will be followed by a compulsory further employment of 12 months.

h. *Non-refoulement*

108. Act LXXX of 2007 on Asylum prescribes that during the asylum procedure it shall be examined if the conditions for the application of the non-refoulement principle are present and determines the definition for this purpose. According to this, the principle of non-refoulement is to be applied, if the applicant is at risk of persecution in her or his country due to her or his race, religion, nationality, membership of a particular social group or political opinion or if the applicant is at risk of the treatment/behaviour determined in Paragraph 2 of Article XIV of the Fundamental Law of Hungary, namely the danger of being sentenced to death, being tortured or being subjected to other inhuman treatment or punishment and there is no such safe third country which would receive her or him.

109. Also, return or expulsion cannot be ordered and cannot be carried out to the territory of a country, which is not considered a safe third country of origin or safe for the person

concerned, in particular where the third-country national is guilty of racial or religious affiliation, belonging to a specific social or political group he or she would be subject to persecution.

i. Measures taken to counter any tendency to target, stigmatize, stereotype or profile on the basis of race, colour, descent and national or ethnic origin especially by politicians, officials, educators and the media

110. According to the ordinance no. 27/2011 (XII. 30.) of the National Police Headquarter on police actions carried out in multicultural environment in the interest of local communities living in a conflict-free environment, commanders should inform the personnel on a regular basis on conflict management related to social groups of minorities. Briefing the law enforcement staff extends to behavioral patterns required when performing actions, the importance of objectivity, the protocol to be followed, the prohibition of discrimination and the importance of police actions free from bias or prejudice.

111. Within the project supported by the National Police Headquarters and the Fraternal Public-service Association of European Roma Law Enforcement Officers, Hungary has been divided into three separate regions and in 2015 three commanders in each county took part in a training on complex management methods to be followed by the law-enforcement personnel in case of hate crimes. The regional divisions drawn up are intended to allow adjacent law-enforcement personnel within a region to share good practices among each other. The development of the curriculum, the gathering of national and international good practices, the inclusion of civil society organizations and the holding of regional meetings has brought about a progressive change resulting on one hand in professional advancement and in the beginning of the change of mind set within the system. As a result of the project Roma communities are able to stand up more effectively against hate crimes as well as the cooperative skills of Roma representatives has strengthened towards the authorities.

112. On 1 April 2016 a guide has been published on police actions related to incidents motivated by hate or prejudice helping the work of the police personnel when it comes to infringements of the law by indicating the proper course of procedure to be followed. The impact assessment of the project took place in 2017 establishing positive results. Besides, the recruitment campaign carried out within the framework of the project reached out to young people of Roma origin spreading information on how one can turn to be a law-enforcement official.

113. We further submit that the National Police Headquarters and the National Municipality of the Roma concluded a cooperation agreement on 16 September 1999 which aims to found a basis for conflict- and prejudice free relationship between the police and the Roma minority, the enhancement of dialogue between the parties in the field of crime prevention, awareness-raising communication and the avoidance of effected persons turning into perpetrators or addicts.

114. Police headquarters are monitoring and forwarding complaints and reports complaining about discriminative police actions particularly on the basis of Roma origin received from the Roma or civil society organizations towards the leaders of territorial working groups responsible for keeping contacts with minorities. In the last year at country level there has been only one complaint which was later found to be unfounded. (No. of complaints in 2013: 23, in 2014: 6, in 2015: 4, in 2016: 1).

115. It is of paramount importance that police officials are strictly prohibited from initiating procedures against someone on the basis of his/her ethnic, religious or linguistic origin or nationality, therefore police profiling is a non-existing phenomenon.

j. Measures taken to ensure the security of non-citizens

116. The asylum detention of asylum-seekers is carried out in closed detention facilities (Guarded Asylum Reception Centres), which are specially designated for this purpose. In these facilities security safety is being upheld by the Police. As concerns the decision on the placement of the affected persons, the Office pays due regard to the national, ethnic and religious aspects, other special reception concerns and needs of each person in order to prevent situations that possibly pose a security threat. Asylum applicants, whose procedure

is carried out in the transit zones and are placed there may leave the transit zone towards Serbia anytime. The third country nationals who were afforded international protection by the Hungarian asylum authorities are placed in the open reception facilities operated by the Office.

117. Reception conditions are secured in all reception facilities in accordance with the binding international and EU regulations on the basis of the national regulation. In order to comply with the national regulations, the territorially competent prosecution offices carry out, on a regular basis, the legal supervision of facilities where refugees and asylum-seekers are placed. If the reports of the prosecution within its power of supervision reveal deficiencies or irregularities, the Office, without delay, addresses the problems in all cases.

118. Apart from the above mentioned, international organizations and NGOs can prepare a report on the functioning of the reception facilities and these organizations can notify the Office during their regular visits. Should these notifications be found to be justified, the Office will take the necessary measures.

Article 6

Question 11: Information on the legislative, judicial and administrative or other measures, in particular on the practice and decisions of court and other judicial and administrative organs relating to cases of racial discrimination

119. Anti-discrimination is enshrined in the Fundamental Law of Hungary; Article XV declares that every person shall be equal before the law, and discrimination is prohibited on the grounds of race, colour, gender, disability, language, religion, political or other views, national or social origin, financial, birth or other circumstances whatsoever. The State strives to guarantee efficient protection for the rights of victims of discrimination and to remedy any wrongs they have suffered by introducing special legislation and other measures. That is the purpose of the Act on Equal Treatment.

120. Equal opportunities in education for Roma children are guaranteed by the prohibition of negative discrimination laid down in the Act on Equal Treatment and the Act on Public Education. According to the relevant law, decisions which have been made within the sphere of institutional authority or under the operator's direction and violate the prohibition of negative discrimination or they are contrary to the children's interest, which is of utmost priority, shall be null and void. Any person may invoke to the invalidity of a decision declared null and void without any time-limit. Furthermore, the Act on Public Education prescribes that any person involved in the organisation, control and operation of public education and in the performance of the tasks of public education shall be obliged to meet the requirements of equal treatment when taking measures and making decisions about children/students.

121. The Act on Equal Treatment was modified by the Parliament which came into force on 1 July 2017 with the aim of reinforcing legislative guarantees of desegregation and anti-discrimination:

- Guarantees that indirect discrimination based on ethnic origin is prevented by setting out that religious education may not serve to legalise ethnic segregation (and vice versa);
- Reinforces quality requirements of minority education;
- Ensures adequate information to and voluntary choice of parents by regulating how parental initiative and voluntary choice can correspond to the requirement of informed and voluntary choice.

Civil law cases (1 January 2013–31 October 2017)

122. Cases related to discrimination on the basis of a person's racial, ethnic or national origin are sporadic in the civil law division of the domestic courts' case law. Such cases may be categorised into three different groups of cases:

- Cases related to exclusion from public pubs, discotheques etc.: Although there have been cases built on racial or ethnic discrimination, more frequently it is the person's drunkenness or violent behaviour which necessitates the exclusion. In these cases the infringement of personal rights has been examined;
- Cases related to the infringement of personal rights on the basis of discrimination in the field of employment: There have been two cases involving alleged discriminative behaviour on the basis of ethnic origin, in which, however, the "causing prejudice" prerequisite could not be proven;
- School segregation: There has been one case where the plaintiff claimed that she had been placed into a new educational institution applying a special curricula due to her ethnic origin. However, it was ruled that the plaintiff's learning skills indeed necessitated her placement in a school applying special curricula.

123. No court action is unlawful if it orders the party alleging his/her infringement of rights on the basis of his/her origin to indicate his/her origin and the action allegedly violating his/her rights. In lack of these statements his/her petition may not be ruled on the merits.

124. There has been only one case built on racial hatred. In this case respondents set the plaintiffs' houses on fire on the ground of their ethnic origin. The court established the infringement of the plaintiffs' right to privacy, the right to property and human dignity and the prohibition of discrimination.

Criminal law cases (1 January 2013–31 October 2017)

125. As already pointed out concerning the regulation on hate crimes, the Criminal Code follows a mixed structure on one hand specifying sui generis offences and on the other hand prescribing that in case of certain other crimes such as homicide, battery or libel committed with a malevolent motive, which may include racist motives, the offence will be subjected to a more severe sentence.

126. There have been three cases concerning the offence of Violence against a Member of the Community where the bias motive behind the act was the Hungarian nationality of the victims.

127. As concerns the criminal offence of Incitement against the Community there have been two cases known to the courts closed with one exonerating and one convicting decision.

128. Since 2016 there have been no cases before the Kúria (Supreme Court) on Incitement against the Community, whereas there have been two cases related to the offence of Violence against a Member of the Community. In one of them the court found the accused guilty for vandalism committed armed with a weapon in a way severely disturbing public peace which entailed imprisonment suspended in its execution. In the other case the Kúria revised the legal categorization of the offence and changed it to violence against a member of the community committed on multiple counts and imposed a more severe penalty and gave instructions as to the evaluation of the racist motive regarding the commission of the crime.

129. See also attachments no. 3 and no. 4.

Question 12: Information on the types of reparation and satisfaction and the burden of proof in civil proceedings in relevant cases

130. In civil law cases the burden of proof is allocated between the party whose rights have been infringed and the party causing prejudice in the following way:

The party whose rights have been infringed

The party causing prejudice

1) He/she must make it probable that he/she belongs to a racial, ethnic or national group

1) He/she must excuse himself/herself by proving that he/she complied with the equal treatment principle

The party whose rights have been infringed

The party causing prejudice

2) He/she must prove the prejudice caused

131. Should the infringement of rights be established, the court typically applies the following legal sanctions:

- Establishing the infringement of the law;
- Ordering to cease the unlawful behaviour;
- Obliging to eliminate the unlawful situation;
- Payment of non-pecuniary damages.

132. In criminal law procedures on account of criminal offences related to racial discrimination civil law claims may be filed as per the general rules.

Article 7

Question 13: Information on legislative and administrative measures taken to combat prejudices which lead to racial discrimination, including information on the educational system

133. See also answers detailed under Question 10 (Measures taken to ensure equal access to education).

Question 14: Measures taken for intensive training of law enforcement officials

134. There have been trainings on this issue on a regular basis for the police in recent years. Moreover, in cooperation with NGOs the Hungarian Police developed a list of indicators for the purpose of identifying and investigating hate crimes. The special expert system was set up within the Police to manage these investigations. These special experts are trained on an annual basis.

135. In order to ensure the conflict-free co-existence of the local communities, the commanders keep the members of the police force informed about the possibilities of managing conflicts related to the members of the social groups living in minorities. The executive staff regularly provide briefings or trainings to patrol officers on the importance of objectivity, the protocol to be followed, the prohibition of discrimination and the importance of bias-free police action.

136. The Prosecutor General's Office follows cases closely involving hate crimes in the course of both the investigation and trial phase of the criminal proceedings. Therefore, in every case involving hate crimes, a copy of the decision ordering any measure on the case's merits (e.g. turning down the report, terminating the procedure, postponing the filing of the indictment, filing the indictment, judgment) must be forwarded by the local prosecutor to the Prosecutor General's Office, where the collection, analysis and if necessary immediate review of the particular case can take place.

Question 15: The role of state media in the dissemination of information to combat prejudices which lead to racial discrimination

Join in broadcasting! Scholarship program for media trainees

137. The programme was started in 2016 by the Media Service Support and Asset Management Fund (MTVA) and the National Cultural Fund, at the initiative of the Minister of Human Capacities, especially for Roma youngsters. Six disadvantaged youngsters took part in the one-year-long scholarship programme, under which they could get familiar with the media, and more closely with the world of news. The tender was continued in 2017 as well.

138. The aim of this creative support is to enable disadvantaged/Roma youngsters to learn about the media, thus contributing to the personal and professional development of

young Roma intellectuals and to the strengthening of their identity. The tender accepted applications from youngsters aged 18–30, if they had at least secondary qualifications and were disadvantaged or the per capita monthly income in their family did not reach 50% of the minimum wage. During the creative period the successful tenderer could gain experience at MTVA. The tender made available a grant of HUF 200,000.

139. Successful applicants to the Join in broadcasting! program may/could work as scholarship trainees at MTVA. This programme is a special field of talent management. The programme wishes to provide opportunities even to those whose families cannot support them in their studies. In addition, the objective is to make sure that the media reaches out to the public through faces that evoke sympathy and understanding, and draw attention to the disadvantaged at the same time. Accordingly, program ambitions include the reduction of racial prejudices and education in connection with the Roma. Two participants of the one-year programme have already become internal employees of MTVA. Throughout the training, participants also got prepared to cope with the most diverse tasks of international communication.
