



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Concluding observations of the Human Rights Committee**

**Hungary\***

**Addendum**

**Information received from Hungary on the implementation of the  
concluding observations of the Committee**

[15 August 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

## **Reply to the issues raised in paragraph 6 of the concluding observations (CCPR/C/HUN/CO/5/Add.1)**

1. During its Roma inclusion interventions Hungary generally follows the principle of explicit, but not exclusive targeting, therefore we direct large part of our measures on the most disadvantaged population. However, this does not exclude monitoring the changes in the situation of the Roma community. Besides using socio-economic data the Government considers to be important that data reflecting the redistributive effects of interventions on the Roma population should be available for the purpose of the assessment of the social welfare system. To this end, Hungary intends to elaborate an anonymous, uniformed ethnic data collection system based on voluntary self-identification in the grant issuing schemes.

2. Thereby Hungary welcomes the latest multiannual Roma programme of the European Union Agency for Fundamental Rights which inter alia includes the extension of its Roma research programmes to all Member States, carrying out data collection for the purpose of measuring the progress, as well as to cooperate in elaboration of monitoring methods and tools.

3. Act No. CXII of 2011 on Informational Self-Determination and Freedom of Information repealed, with effect from 1 January 2012, Act No. LXIII of 1992 on the Protection of Personal Data and the Disclosure of Information of Public Interest. From this date the general, horizontally applicable legal provisions related to the protection of personal data as well as to the disclosure and dissemination of data of public interest – guaranteed under Article VI § 2 of the Fundamental Law – have been contained in Act No. CXII of 2011.

4. Sections 5 and 6 of Act No. CXII of 2011 determine the lawful cases of personal data handling – that is the limitations of the right of informational self-determination – as follows:

### **“The Legal Basis of Data Handling**

#### *Section 5*

- (1) Personal data may be handled if
  - (a) the data subject agrees to it, or
  - (b) the data handling is prescribed for a public interest-based purpose by an Act of Parliament or – upon the authorisation of an Act of Parliament, within the scope specified in that Act – by a local government decree (hereinafter mandatory data handling).
- (2) Special data may be handled in cases specified in Section 6 or if
  - (a) the data subject agrees to it in writing;
  - (b) in case of the data specified in Section 3 subsection (3) a) – such handling is necessary for the implementation of an international treaty promulgated in Act of Parliament or is provided for by law in order to enforce a fundamental right enshrined under the Basic Law, or in the interests of national security, prevention or prosecution of crime, or in the interests of national defence, or
  - (c) in case of the data listed in Section 3 subsection (3) – it is provided for by an Act of Parliament for public interest-based purposes.
- (3) In case of mandatory data handling, the Act of Parliament or the local government decree providing for the data handling shall determine the type of data

to be handled, the aim and conditions of data handling, access to data, duration of the data handling, and the person of the data handler.

(4) Criminal personal data related to the prevention and prosecution of offences and handled in order to carry out public administration or judicial administration tasks, and registers containing data related to regulatory offences and civil – contentious and non-contentious – matters shall only be handled by state or local government bodies.

#### *Section 6*

(1) Personal data may also be handled where the consent of the data subject cannot be obtained or to obtain the consent would incur excessive costs and the handling of personal data is needed in order to

(a) meet a legal obligation imposed on the data handler, or

(b) enforce a rightful interest of the data handler or a third party and the enforcement of such an interest is proportionate to the restrictions imposed on the right to the protection of personal data.

(2) Where due to incapacity or for other reasons beyond his control the data subject is unable to provide his consent, the personal data of the data subject may, in order to protect his own or another person's vital interests, be handled during the period in which consent is unavailable, to the extent necessary to avoid or prevent a direct threat to the lives, physical integrity or property of persons.

(3) For the validity of a legal statement containing the consent of a minor aged over 16 the consent or subsequent approval of the statutory representative shall not be required.

(4) Where the aim of the consent-based data handling is to enforce a written contract concluded with the data handler, the contract shall contain all the information that the data subject must – under this Act – be aware in respect of personal data handling, thus – in particular – the determination of the data to be handled, the duration of the data handling, the aim of the use of data, evidence of transfer of data, recipients and evidence of the use of a data processor. The contract must clearly and explicitly contain that by signing it, the data subject consents to the handling of his data in accordance with the conditions specified in the contract.

(5) Where personal data was recorded with the consent of the data subject, the data handler may – unless it is otherwise provided for in an Act of Parliament – handle the recorded data in order to

(a) comply with a legal obligation imposed on the data handler, or

(b) enforce a rightful interest of the data handler or a third party, provided that the enforcement of such an interest is proportionate to the restrictions imposed on the right to the protection of personal data without having to obtain any additional special consent, even after the data subject withdraws their consent.

(6) Personal data needed for the completion of court or administrative proceedings instituted upon the data subject's request and, in other cases, personal data provided by the data subject himself shall be deemed to have been given by the data subject.

(7) Consent of the data subject shall be deemed to have been given in respect of personal data disclosed or made public by the data subject himself while acting as a public figure.

(8) In case of doubt the presumption will be that consent has not been given by the data subject.”

## **Reply to the issues raised in paragraph 15 of the concluding observations**

### **1. Alien-policing detention**

#### **(a) Conditions of alien-policing detention**

5. The conditions of ordering detention as well as conditions of executing detention order are clearly set out in national immigration legislation. Conditions of alien-policing detention of third-country nationals not enjoying the right of free movement are governed by Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals in line with the provisions of the European Union (EU) Return Directive.<sup>1</sup> Alien policing detention can only be ordered on grounds enlisted in this piece of legislation for the purpose of secure the deportation or the transfer or return under the Dublin process. These provisions are in line with the criteria established by the European Court of Human Rights according to which rules governing deprivation of personal freedom should also in practice be sufficiently accessible, precise and predictable. In addition, in accordance with the EU Asylum Procedures Directive<sup>2</sup> third-country nationals cannot be detained for the sole reason that he/she has submitted an application for asylum. Detention of asylum seekers can only be ordered in case the third-country national submits the asylum application after the alien-policing detention has already been ordered against him.

6. Furthermore, national legislation also requires the examination of alternatives to detention if the reason for ordering detention is the risk of absconding or obstructing the enforcement of the deportation or transfer. In such cases consideration should be given whether execution of removal could be secured by other less restrictive measures (compulsory confinement or seizing travel document), which factor is also assessed by the authorities having competence in extending the duration of detention. Detention order is under all circumstances preceded by individual assessment of the cases, during which the immigration authorities take into account whether any previous offense has been committed by the individual in question, the individual circumstances of the case and the relevant country of origin information. Pursuant to national legislation detention is terminated when the conditions for carrying out the expulsion or transfer are secured and the competent authorities have to make efforts to order detention for the shortest period possible. In Hungary detention cannot be ordered against unaccompanied minors, who are placed in a special welfare institution for children.

7. The legality of implementation of detention is assessed every two weeks by the prosecutor's office. The immigration authority can order detention only for a period of 72 hours; it is the competent court that may decide on the extension of detention. In accordance with the EU Return Directive, the detention period is a maximum of six months, which can be extended by the court with another six months maximum. Detainees' right to legal representation is secured.

8. In autumn 2012 the Hungarian Government is planning to review the conditions of alien-policing detention with a view to define more clearly the conditions under which

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<sup>1</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

<sup>2</sup> Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

alien-policing detention can be ordered against aliens, especially against asylum seekers taken back under the EU Dublin Regulation.<sup>3</sup>

9. In accordance with the rules concerning ordering the detention of families with minors, detention can only be ordered taking into account the best interest of the minor, only as a last resort and for a maximum duration of 30 days. In these cases the competent authority has to consider whether the desired goal could not be achieved through other less restrictive means, such as seizing travel documents or ordering a designated place of residence. If so, detention cannot be ordered.

10. Foreigners with the right of free movement fall under the more favourable – as in imposing more restrictions on authorities – regulations of Act I of 2007. In their cases, only detention for the purpose of securing expulsion can be ordered, which can last up to three months.

11. Detention ordered within the alien-policing procedure is implemented in facilities maintained by the Police, so-called guarded accommodations, where aliens may only be held for alien-policing reasons, not for the executing criminal sentences. During the implementation of the detention – with the exception of spouses – men should be treated separately from women, such as families with minors should be treated separately from the other detainees.

12. With respect to the ‘prison facilities’ failing to meet the standards set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in the Concluding observation, we would like to highlight that all of these facilities temporarily used for the purpose of alien-policing detention were closed down in the year of 2010. Currently 8 guarded accommodations operate in the country with an overall capacity of 635 persons.

**(b) Conditions and rules of implementation of alien-policing detention**

13. Adequate living conditions of aliens placed in guarded accommodations are ensured by the Police via state funding and – in a complementary manner – with the use of EU funds. Pursuant to national legislation in force from 1 January 2012, within the guarded accommodations aliens may use the premises freely while keeping to the policy of their assigned living space. Family members, including spouses shall be placed together, separated from other aliens in a living space, in compliance with the basic conditions of family cohabitation. Aliens at the guarded accommodations are entitled to health care services, meals suitable for their religions and have the opportunity to spend time outdoors. They are also entitled to keep contact with the outside world: phone calls, letters and receiving visitors. Additionally, they have the right to keep unmonitored contact with their legal representatives, representatives of human rights organisations and members of authorities monitoring their detention.

14. Minors staying at the guarded accommodation with their families are entitled to additional rights, such as various leisure activities, including games appropriate to their age, recreational activities and – depending on the duration of detention – education appropriate to their age.

15. Detained third-country nationals have the right to submit a complaint against the measures taken against them or the lack of measures taken. They are also entitled to directly contact the competent prosecutor responsible for supervising the legality of guarded accommodations as well as to contact the Parliamentary Commissioner. With a

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<sup>3</sup> Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

view to improving the standard of living and the treatment of detainees in the guarded accommodations, the Police work in close cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) Central European Regional Representation, the International Organization for Migration and relevant non-governmental organizations (Hungarian Helsinki Committee and Menedék – Association for Helping Migrants).

16. In November 2011, a consultation was held between the Police and the organizations mentioned above in order to identify problems and possible solutions. Based on this consultation, the National Police Commissioner issued an action plan in March 2012, based on which the Police will make further efforts to improve the conditions of detention. These include placing televisions, radios, magazines, books and board games in common areas and ensuring appropriate cultural and leisure activities.

17. In addition, only personnel having completed an intercultural training will be able to perform duty at the guarded accommodations. In the regulations of guarded accommodations, rules on restrictions with regard to hygiene and outdoors activities will be reviewed.

18. The Police – using the resources of the European Return Fund and the national budget – will provide various community programs, access to internet, individual social counselling and psychological assistance for the target group at guarded accommodations in Békéscsaba, Nyírbátor, Kiskunhalas, Győr and facilities under the authority of the Budapest Airport Police Directorate. At the guarded accommodation in Nyírbátor, further infrastructure developments (room suitable for exercising religion, gym, outdoor gym, library, game room) have been provided.

19. Furthermore, in the framework of the European Return Fund the guard personnel working at the guarded accommodations will take part in intercultural trainings and conflict resolution trainings. In addition several asylum experts have also attended professional trainings within the framework of projects provided under the European Refugee Fund.

## **2. Conditions of admission**

20. Detention of third-country nationals recognized as refugees by the Hungarian asylum authority is forbidden according to relevant legislation, since recognized refugees are entitled to reside in Hungary. Therefore detention of refugees can only occur in the framework of offense or criminal proceedings.

### **(a) Living conditions of asylum seekers**

21. In Hungary, as a general rule – with the exceptions mentioned above – asylum seekers are accommodated at reception centres.

22. Hungary continuously strives to improve the living conditions of asylum seekers and refugees. Services and support provided for asylum seekers meet the requirements of the relevant EU legislation, such as the Reception Conditions Directive<sup>4</sup>. Hungary, in accordance with its undertaken humanitarian obligations and the relevant EU directives – with special attention to minor applicants and families – provides a variety of benefits and subsidies, establishing a framework in which with the reception system set up for this purpose can ensure the material and personal conditions of reception.

23. The key elements of care provided for asylum seekers at reception centres are accommodation, meals three times daily (or meals of equal value), cutlery and sanitary

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<sup>4</sup> Directive 2003/9/EC of the Council of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

equipment for personal use (or hygienic contributions and clothing of equal value), monthly stipend for free use, asylum seekers may also receive clothing – primarily from donation – at the reception centres. The health care of migrants and the education of school-age asylum seekers are free of charge. Primary health care and some specialised health care services are also available for asylum seekers at the reception centres, while other services are available at the local health care service providers. In addition, asylum seekers are entitled to travel subsidies and school-age minors or minors pursuing studies are eligible for schooling support (reimbursing the cost of meals in the educational institution, the fees of placement in a student hostel or a dorm, as well as the allowance for buying school equipment for the purpose of accomplish school obligations).

24. The measures mentioned above and also programmes partly complementing the state's role (e.g. free-time programmes, language courses, sessions with children) aiming to increase the living standards of asylum seekers are supported by the Hungarian national budget and the European Refugee Fund.

**(b) Living standards of refugees**

25. In Hungary, refugees and beneficiaries of subsidiary protection – with few exceptions – enjoy equal rights with Hungarian citizens. Additional allowances are provided for refugees and beneficiaries of subsidiary protection in areas relevant to their living standards (language learning, education, housing, health and social services, obtaining Hungarian citizenship) by asylum and sectoral legislation. A relatively wide group of civil and religious organizations assist in increasing the living standards and long-term integration of the refugees and beneficiaries of subsidiary protection.

**3. Respecting the principle of non-refoulement, the issue of refoulement of Somali and Afghan asylum seekers**

26. The Hungarian regulation of extradition proceedings enacted in Act No. XXXVIII of 1996 on the International Legal Assistance are fully complying with international standards. The custody for the purpose of extradition may not exceed a period of 72 hours. The provisional arrest for extradition can last maximum 40 days; therefore, it shall be terminated, if no request for extradition is submitted within forty days of the order for such arrest. The arrest for extradition may not exceed six months. The Metropolitan Court may on one occasion extend this period for another six months.

27. Extradition of refugees shall be refused save such extradition is requested by a third country identified in the Act of Asylum as a safe country. Temporarily protected persons, persons authorized to stay, as well as persons applying for recognition as refugee or asylum seeker, respectively cannot be extradited to the State from which they have fled.

28. If the person claimed applies for recognition as refugee or beneficiary of temporary protection, or asylum proceedings are under way the time limit for the extradition arrest under and for the provisional extradition arrest shall – by taking into account the final completion of the asylum proceedings – be extended in such manner that after the refusal of the recognition as refugee or beneficiary of temporary protection the authorities have at least forty days for taking decision on the matter of extradition and for surrendering the extradited person. The duration of the extradition arrest or the provisional extradition arrest shall not, however, even in this case exceed twenty-four months from the starting date of the arrest.

29. In according with Hungarian legislation on the requirement of non-refoulement, throughout any procedure which can result in the removal of the alien from the territory of Hungary, the authority has to examine whether this action would conflict with the principle of non-refoulement, namely whether there is a safe country in which the alien can enter.

30. An important guarantee in enforcing the principle of non-refoulement is the set of national provisions securing access to the asylum procedure. These regulations ensure that someone having a fear of a treatment contrary to that principle can seek asylum in Hungary. Therefore Hungarian legislation provides for the possibility to submit an application for asylum. If the alien expresses the intent of submitting an asylum application during immigration, criminal or offence proceedings, the competent authority has to notify the asylum authority immediately.

31. There is a tripartite border monitoring agreement in place since 2007 between the Police, UNHCR Central European Regional Representation and the Hungarian Helsinki Committee (HHC), which allows the HHC to observe how the compliance with the principle of non-refoulement is applied in practice by the Police, thus whether the right of the asylum seeker to enter the country and to submit an application for asylum is secured, as well as to monitor the treatment of the aliens intercepted by the Police. A detailed report is made publicly available concerning these activities on a one or two-year basis. With regard to the alleged refoulements to Ukraine, we would like to highlight that if a third-country national applies for asylum in Hungary, their refoulement to Ukraine cannot occur during the asylum procedure, and if they do not apply for asylum, the authorities examine in all cases whether on the basis of the individual circumstances it is possible to send back the person in question, while respecting the principle of non-refoulement. Hungary is not aware of any cases in which asylum seekers have been refouled without conducting an asylum procedure.

### **Reply to the issues raised in paragraph 18 of the concluding observations**

32. During his visit to Hungary at the State Secretariat for Social Inclusion in 2012 Rabbi Andrew Baker, American Jewish Committee (AJC) Director of International Jewish Affairs, Personal Representative of the Organization for Security and Co-operation in Europe (OSCE) Chairperson-in-Office on Combating Anti-Semitism, has noted that situation of Jews and the Roma is entirely different but somewhat merged in some public discourse since critical voices often treat them as one. He also recognized the Government's achievements in order to step up more effectively against the expansion of extreme radical ideas-certain forms of the so-called "criminality in uniform" with racist motivation.

33. In May 2011 the Parliament amended the penal legislation regarding violence against member of ethnic community. The amendment enables the punishment of those forms of behaviour that incite fear in the members of a religious or ethnic community. It is confirmed that the State has step up against the expansion of those criminal acts with racist or anti-Semitic hue, but also against manifestations which provoke ethnic conflicts. Members of the Parliament are not immune either from being accountable, so their criminal liability for inducing hatred speech can be established.

#### **1. Specific measures to raise awareness in order to promote tolerance and diversity in society - The Wallenberg Committee**

34. Under the motto "A human in the midst of inhumanity" Hungary celebrates and preserves the memory of the Swedish martyr, Raul Wallenberg. On the occasion of the 100th anniversary of his birth the Hungarian Government decided to declare 2012 to be The Year of Raul Wallenberg and to set up a Memorial committee to treasure his memory, a gesture praised also by Rabbi Baker.

35. In January of this year the Wallenberg Prize was established and awarded to individuals and municipalities who had great achievements on the field of peaceful

coexistence of Roma and non Roma people. Their activities contributed to the Hungarian combat against negative prejudices, racism, anti-gypsyism, anti-democracy.

## **2. Alleged racial profiling by the police**

36. Pursuant to Act CXII of 2011 on Informational Self-determination and Freedom of Information personal data concerning racial or national origin constitutes special data, which can only be processed on grounds enlisted in the Act, namely if the data subject gives permission in writing, the processing of data is necessary to implement an international treaty or is provided for by law to enforce fundamental rights ensured in the Basic Law of Hungary, serves the interests of national security, prevents offences, assists prosecution or serves national defence interests. Consequently, no personal data concerning racial or national origin is collected by the authorities, thus the police does not apply any racial profiling methods.

37. The rules of police checks are clearly regulated in the national legislation (Act XXXIV of 1994). It is a basic principle that checks can only be carried out for a specific purpose, mainly for the purpose of establishing the identity of the person. Pursuant to the Act on Police (Act XXXIV of 1994) complaints can be submitted against measures taken by the police, including police checks and coercive measures on the ground that it is violating fundamental rights. The complaint can either be submitted to the body having taken the challenged action or to the Independent Police Complaints Board or it can be requested that the complaint be investigated by the police chief commissioner. The Independent Police Complaints Board consists of five members elected by the Parliament. As a general rule the decisions taken by the Board are published on its website. Complaints procedures are exempt from any charges. Administrative appeal can be brought against decisions on the complaints by the body having taken the challenged action, whereas decisions taken by the police chief commissioner are subject to judicial review.

## **3. Racially motivated violence against Roma – steps taken by Hungary**

38. With the aim of suppressing intensified anti-Roma manifestations in Hungary the police has put in place strong measures, which contributed to the elimination of hostile manifestations in the affected regions and the restoration of the public order and public safety.

39. The investigations launched by the police in the racially motivated Roma homicide cases committed in 2008-2009 were successfully completed, the perpetrators were detected, arrested and prosecuted, and the criminal proceedings are currently ongoing.

40. The operation of the far-right organization called 'Magyar Gárda' was banned in a final judgment; the court disbanded the organization as well as forbade the use of the uniform and the symbols of the former organization. Following reporting of illegal activities of Magyar Gárda to the police in the settlements of Gyöngyöspata and Hajdúhadháza, in order to ensure public safety of the communities the police intensified its control and assigned police forces in the settlements.

41. An ad-hoc parliamentary committee was set up with the mandate of investigating the process and the background of the events that took place in the village of Gyöngyöspata; the findings of the committee were adopted in a form of a report on 9 May 2012. The committee has found that the government took adequate steps in continuously monitoring the situation in the settlement, thereby preventing the further deterioration of the situation. The committee has also concluded that the actions taken by the police in Gyöngyöspata were in conformity with the requirements of necessity and proportionality.

42. The legal provision governing violence against a member of a community under Section 174/A of Act IV of 1978 on the Criminal Code was amended with effect from 7 May 2011 by Act No. XL of 2011 Amending Act IV of 1978 on the Criminal Code

(henceforth: Act No. XL of 2011) which inserted a new phrase in the legal provision governing the offence. Under amended subsection (1), any person performing grossly antisocial conduct on account of a person's real or perceived belonging to a national, ethnic, racial or religious group or to certain groups of the population shall, if the conduct is suitable for causing alarm, commit a felony offence punishable by imprisonment of up to three years.

43. Thus, the legal provision governing the offence of violence against a member of a community provides criminal law protection not only against assaults or coercions on account of a person's real or perceived belonging to a national, ethnic, racial or religious group or to certain groups of the population but also against non-violent but grossly antisocial conducts, suitable for causing alarm.

44. Act No. XL of 2011 inserted as Section 217 of Act IV of 1978 on the Criminal Code a new legal provision governing the offence of unlawful organisation of public safety activity. Under the new criminal provision, anyone organising, without statutory authorisation, an activity designed to maintain public safety or public order, or organising an activity creating the appearance of maintaining public safety or public order, shall commit a misdemeanour punishable by imprisonment of up to two years. Organising public safety activity may become unlawful by organising, without statutory authorisation, an activity designed to maintain public safety or public order, or creating the appearance of maintaining public safety or public order.

45. On 25 June 2012 the new Criminal Code was adopted by the Parliament. Act No. C of 2012, currently awaiting the signature of the President of Hungary, which enters into force on 1 July 2013 introduces several new provisions aimed at enhancing the protection of ethnic and racial groups. In particular, a new provision is included whereby actions aiming at the preservation of public order and public safety without any legal authorization will be penalized (Article 352). Also, a new provision in the Code is introduced according to which any provocatively anti-societal behaviour is penalized, which is capable of creating legitimate fear or panic among members of national, ethnic, racial or religious groups (Article 216). Similarly to the Act IV of 1978 on the Criminal Code in force at present, violence against a member of the community (Section 216) and incitement against a community (Section 332) shall continue to constitute criminal offences under the new Act as well:

**“Violence against a member of a community**

*Section 216*

(1) Any person showing grossly antisocial conduct on account of another person's real or perceived belonging to a national, ethnic, racial or religious group or to certain groups of the population shall, if the conduct is suitable for causing alarm, commit a felony offence punishable by imprisonment of up to three years.

(2) Any person assaulting or coercing with force or threat another person to do or not to do or to endure something on account of that person's real or perceived belonging to a national, ethnic, racial or religious group or to certain groups of the population, in particular on account of their disability, sexual identity or sexual orientation, shall commit a felony offence punishable by imprisonment of up to five years.

(3) The punishment shall be imprisonment lasting from two to eight years if the violence against the community is committed

- (a) while armed with a weapon
- (b) while armed with a tool suitable for killing,
- (c) by causing significant harm of interests

- (d) by tormenting the injured party
- (e) in a group, or
- (f) in a criminal organisation

(4) Preparation to commit violence against a member of a community shall be punishable by imprisonment of up to two years.

### **Incitement against a Community**

#### *Section 332*

Any person who incites to hatred before a great public against:

- (a) the Hungarian nation,
- (b) any national, ethnic, racial group or
- (c) certain groups of the population, in particular on account of their disability, sexual identity or sexual orientation, shall be punishable by imprisonment of up to three years.”

46. In case of violence against a member of a community the prohibited conduct must be performed on account of the real or perceived belonging of a person to certain groups of the population, whereas in case of incitement against a community the prohibited conduct must be performed against certain groups of the population. The criminal provisions under the new Act No. C of 2012 identify sexual identity, sexual orientation and disability as group formation factors, thus making it clear that enhanced criminal protection is granted to these groups.

47. The inclusion of the grounds of sexual orientation or sexual identity has been warranted, on the one hand, by the need to comply with international recommendations and, on the other hand, on account of the fact that the number of hate offences committed against such groups has risen in Hungary. The inclusion of the ground of disability is justified by both the need to meet international requirements and the fact that due to their medical status they can protect themselves against attacks only with difficulty.

48. Under the new Act No. C of 2012, in case of the offence of violence against a member of a community the grossly antisocial conduct is not required to be performed against another person, it is sufficient to be performed against a property, with the racist motive specified in the provision governing the offence. The offence of unlawful organisation of public safety activity is contained in the new Act No. C of 2012 in unaltered form (Section 352).

49. A separate investigation unit has been set up within the Criminal Investigation Department of the National Police Headquarters with a view to take more effective actions against hate crimes.

50. Many of the former members of the Magyar Gárda movement continued to carry out their activities against the Roma population, some of them within the framework of voluntary neighbourhood watch organisations. Consequently, with a view to preventing radical militant movements to legalize their activities within these organizations a complex piece of legislation was adopted regulating the activities of voluntary neighbourhood watch organisations, including their cooperation with the police force (Act CLXV of 2011), entering into force on 1 February 2012.

51. A decree was issued by the Police Headquarters on the implementation of police measures in a multicultural environment (Decree no 27/2011). The decree aims at promoting understanding of people living in multi-cultural environment, reinforcing crime

prevention and establishing of rules supporting the efforts of the police in eliminating the development of stereotypes and discrimination during the police procedures.

#### **4. Initiatives improving the situation of Roma minority**

##### **(a) Cooperation between OSCE and the Hungarian Ministry of Interior**

52. The OSCE ODIHR (Office for Democratic Institutions and Human Rights) visited Hungary during the summer of 2009 and presented its experiences and recommendations under the title of “On the spot inquiries of violent incidents against Roma people in Hungary”.

53. In November 2010 a conference was organised by ODIHR and the Hungarian Government during which the publication of the ODIHR on best practices collected in connection with recognition and investigation of hate crimes was presented. In addition it was suggested that the Hungarian Ministry of Interior and the ODIHR organise another common conference to discuss these issues in the course of which the police forces of other states would delineate the programs that they use successfully during the detection of hate crimes. This conference took place in November 2011 in Budapest.

##### **(b) Cooperation with the Roma local governments and Roma civil organisations**

54. The Ministry of Interior and the National Roma Self-Government has concluded an agreement for the years of 2012-2014 in order to facilitate the integration of the Roma society. A desk officer responsible for Roma issues has been designated in the Ministry of Interior Human Relations Department. The desk officer participates in conferences, working parties, meetings and signals the problems to the Ministry and the competent law enforcement authorities, furthermore keeps contact with the Roma governments, foundations and Roma population.

55. In 2011 the Police Chief Commissioner adopted a Decree on the cooperation between the police and local self-governments of the Roma minority (Decree 22/2011) in order to guard develop and enhance this cooperation. The purpose of the cooperation is the establishment of a relationship without prejudice and conflict between the police and the Roma minority, with special attention to crime prevention, avoidance of becoming victim, offender, or an addicted person and to communication raising awareness.

56. The police have established a central working party responsible for keeping contact with ethnic groups. It has different regional working parties. The members are police officers appointed by their superiors. The leader of the central WP is the chief of the Law Enforcement General Directorate of the Hungarian National Police Headquarters. The police keep under review all complaints submitted made by the Roma population or non-governmental human rights organizations, which specifically concern discriminatory police action against Roma persons. The working party on minorities informs on a regular basis the National Roma Self-Government about the complaints submitted, the criticized procedures by the police and the results of the investigations of the complaints. In addition, a national conference is held on an annual basis with the participation of professionals working in the field of minority issues. The working party help the law enforcement secondary schools to recruit and to organise open hours during which the young people of Roma origin may become acquainted with the profession. They keep contact with the leaders of the local governments of the Roma ethnic in order to familiarize the possibilities how to become police officers. The national ethnic liaison officer is appointed by the police chief commissioner, and the regional ethnic liaison officer is appointed by the chief of the regional law enforcement authority from the members of the working party. They take part in ethnic meetings and forums, keep in touch with the social organisations and foundations of the Roma minority, as well. The working party and the liaison officers organise evaluation meeting and consultation once a year. According to the decree the programmes

of the police raising awareness on security issues shall be extended to the schools and local institutions of the settlements inhabited mainly by the Roma ethnic.

**(c) Raising representation of Roma people in the law enforcement authorities**

57. The Ministry of Interior has organised camps eight times so far for Roma secondary school students in order to assist them how to study and work for the law enforcement authorities. The camp was free for the participants. Approximately 40% of the participants usually admitted into one of the police schools after the camp. In order to recruit Roma people to the Police, the Ministry of Interior regularly provides information to Roma secondary schools and conferences on the conditions of becoming a police officer with the support of the Fraternal Association of European Roma Law Enforcement Officers. In cooperation with the Association a best practice collection will be compiled presenting the methods adopted by European law enforcement authorities in effectively handling minority issues.

58. The scholarship programme of the Police for Roma people has been running since 1996. The aim of the programme is to inspire Roma children/youth to choose police profession. Within the framework of the programme support is given by the regional police headquarters for Roma children participating in secondary school education. A similar programme exists for the Roma youth participating in higher education which is supported by the National Police Headquarters. Roma people may be employed by the police as officers or public servants, in 2011, 32 applicants were enrolled as a result of a call for proposals, 14 of them as officers.

**(d) Public employment programme**

59. The Government has elaborated a programme on public employment with a view to ameliorate the situation of long-term unemployed persons and persons living in extreme poverty. The main objective of the programme is to provide access to the labour market for the long-term unemployed population. The programme aims at providing employment for the active unemployed population by providing an income that is double that of the social assistance, nevertheless below the statutory minimum wage. Trainings for municipalities are also provided within the framework of the programme with a view to support the employment of public employment workforce.

**(e) Training of officials**

60. Communication and conflict resolution trainings (focusing mainly on the social inclusion of women, minorities and other disadvantaged social groups) were provided for the staff of the police. Furthermore, trainings on the identification of racism are provided for the staff, vocational training schools for the police continuously include in their training programmes minority-related curriculum elements, in particular communication with minorities, the issue of tolerance, violations committed against minorities (the following main curriculum elements: social and communication skills, legal and administrative skills, measures resulting in the restriction of personal freedom, protection of public order).

61. In June 2011 an intercultural training was organized for officials of the police force within the International Law Enforcement Academy (ILEA) in Budapest the training was specifically focusing on communication with minorities and enhancing tolerance among the police force. It is to be noted that knowledge on Roma ethnography is part of the curriculum of secondary and higher education for police officers. Within the framework of the STEPSS Programme (Strategies for Effective Police Stop and Search), which was an international initiative financed by the European Commission and the Budapest Open Society Institute Foundation, police officers and civil persons examined together how effective the identity checks of the police are, whether the checks affect certain social groups. The purpose of the programme was to involve experts of minorities, to survey the

legal background, to find alternative solutions, to improve the relationship and communication between the police and the minorities.

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