

# Franel National contribution to the Fundamental Rights Report 2023

**Hungary**

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## Policy and legal highlights 2022

Franet country study: policy and legal highlights 2022	
Issues in the fundamental rights institutional landscape	<p><b>The rule of law:</b> The <a href="#">10th amendment</a> to the Constitution created a new legal ground for declaring a state of danger in the event of armed conflict in a neighbouring country. The parliament <a href="#">amended the law</a> related to public consultation in law-making, “in the interest of reaching an agreement with the European Commission”. NGOs criticised <a href="#">the Act</a> as it does not provide adequate guarantees for public participation.</p> <p><b>Ombudsperson:</b> The Global Alliance of National Human Rights Institutions downgraded <a href="#">the status of the Ombudsperson’s office</a> to “B – partially compliant”.</p>
EU Charter of Fundamental Rights	<p><b>Implementation of the Charter:</b> Reference to the EU Charter can most often be found in judicial decisions, the Charter was mainly used as a tool of fundamental rights interpretation (e.g. respect for private and family life) and compliance with the EU law. It is usually accompanied by other sources of EU law.</p>
Equality and non-discrimination	<p><b>LGBTIQ:</b> The government organised a <a href="#">referendum</a> on LGBTIQ-related topics, following a 2021 anti-LGBTIQ legislative amendment.</p>
Racism, xenophobia & Roma Equality and Inclusion	<p><b>Institutionalised double standards</b> in the treatment of refugees from Ukraine and those arriving from outside Europe are applied: Hungary’s Eastern border is open for refugees from Ukraine, whereas its Southern border with Serbia has remained closed. The UNHCR chief warned about the <a href="#">“discrimination, violence and racism”</a> against primarily non-Ukrainians fleeing the war. Discriminatory access to the territory of Hungary and to reception conditions was reported in relation to <a href="#">Roma fleeing Ukraine</a>.</p>
Asylum & migration	<p><b>Unlawful detention:</b> The European Court of Human Rights (ECtHR) ruled in the case of <a href="#">M.B.K and Others v. Hungary</a> that keeping an Afghan family for more than 200 days in the transit zones was unlawful detention under inhuman conditions.</p>
Data protection and digital society	<p><b>Secret surveillance operations:</b> the Authority for Data Protection and Freedom of Information published conclusions of its <a href="#">investigation into to the use of Pegasus</a>, <a href="#">stating</a> that no information indicated that conducting the surveillance had violated any laws. The ECtHR delivered a judgment in the case of <a href="#">Hüttl v. Hungary</a> and held the violation of Article 8. According to the judgment, there is no external oversight mechanism related to secret surveillance operations in Hungary, and data subjects have no access to efficient remedies.</p>
Rights of the child	<p><b>Child poverty:</b> The Hintalovon Child Rights Foundation <a href="#">reported</a> that almost 100,000 children live in settlements without family doctors. The report criticised government programmes (housing support initiatives, housing modernisation support), which are only open to families in good financial conditions.</p>

<p>Access to justice, including victims of crime</p>	<p><b>Access to justice:</b> The National Judicial Council found <a href="#">irregularities in appointments</a> made by the Chief Justice to the Curia which has also resulted in the appointment of a candidate arriving directly from the executive.</p> <p><b>Abortion:</b> The Minister of the Interior <a href="#">amended</a> the regulation on abortion requiring the “showing, to the pregnant woman, a clearly identifiable indication of the vital signs of the foetus”.</p>
<p>Convention on the Rights of Persons with Disability</p>	<p><b>Persons with disabilities:</b> Hungary <a href="#">has not transposed</a> the European Accessibility Act into national law by the transposition deadline. The UN Committee on the Rights of Persons with Disabilities <a href="#">expressed concerns</a> about the limited possibilities of autonomous decision-making.</p>

# 1. Equality and non-discrimination

## 1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination focusing on LGBTIQ people and combating discrimination on the grounds of socioeconomic status, health status and physical appearance

### 1.1.1 LGBTIQ people

#### Invalid results for the national referendum on LGBTIQ-related questions

The government initiated a referendum on five lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ)-related questions, following a 2021 legislative amendment that allowed for a referendum and general elections to be held at the same time.<sup>1</sup> For four of the questions, the referendum took place on 3 April 2022, the day of the parliamentary elections. The fifth question – “Do you support sex change treatments being available also to minors?” – was eliminated by the government after the Curia (*Kúria*) found it to be in violation of Article XVI of the Fundamental Law, on the child’s right to sexual identity.<sup>2</sup> The Constitutional Court later reversed that decision.<sup>3</sup>

At the end of March 2022, the government sent an information letter to email addresses collected for COVID-19 vaccination registration, calling on citizens to vote “no” in the referendum. Civil rights organisations challenged the government campaign, arguing that the email addresses should not have been used for such purposes.<sup>4</sup>

Civil and opposition campaigns called for spoiling the ballot,<sup>5</sup> a practice that the National Election Commission found illegal. It imposed fines of HUF 176,400

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<sup>1</sup> Hungary, National Elections Office (*Nemzeti Választási Iroda*) (2022), National Referendum, 3 April 2022 ([Országos népszavazás, 2022. április 3.](#)), 2 May 2022.

<sup>2</sup> Hungary, Curia (*Kúria*), [Decision No. Knk.II.40.646/2021/9](#), 22 October 2021.

<sup>3</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 33/2021. \(XII. 22.\) \(33/2021. \(XII. 22.\) AB hat.\)](#), 22 December 2021.

<sup>4</sup> Amnesty International Hungary (2022), The government is giving a shot of hate to people via e-mail on the COVID list ([E-mailben oltja a kormány az embereket a gyűlöletet a koronavírus-listán](#)), 29 March 2022.

<sup>5</sup> See the website of the campaign at <https://www.ervenytelenul.hu/>. See also: Amnesty International Hungary, Budapest Pride, Cíviscolors, DebrecenPride, Háttér Society, Labrisz Lesbian Association, LGBTIQ persons’ parents and relatives – support group, Hungarian Asexual Community, Hungarian Helsinki Committee, Hungarian LGBT Association, Hungarian

(€ 436) on 16 organisations,<sup>6</sup> and an additional HUF 3,000,000 (€ 7,430) on each of the two main organisers of the campaign (Háttér Society and Amnesty International).<sup>7</sup> The organisations considered this as an attempt to silence their protest.<sup>8</sup> All decisions were challenged before the Curia, and three out of the five were overturned.<sup>9</sup>

The Council of Europe Commissioner for Human Rights, Dunja Mijatović, issued a statement that she was “worried that the proposed referendum will entrench stereotypes, prejudice and hate against LGBTI people and therefore have a strong negative impact on their rights, safety and well-being, by putting questions to popular vote that are ambiguous and misleading.”<sup>10</sup>

The “Referendum for child protection” asked the following questions:

1. Do you support education on sexual orientation being made available to minors in public education institutions without the consent of parents?
2. Do you support sex change treatments being available to minors?
3. Do you support the presentation of sexual media content to minors that influences their development without restrictions?
4. Do you support the presentation of media content to minors displaying sex change?

An overwhelming majority of valid votes agreed with the government: “No” accounted for 92-96 % of all valid votes. However, the number of invalid votes was high, at approx. 21 % of all votes cast. When abstentions were taken into account (31.5 % of all eligible votes), the ratio of valid votes fell below 50 % (approx. 47 %), meaning that the results were legally invalid.<sup>11</sup>

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Environmental Partnership Foundation, noÁr Movement, Pedagógusok az LGBTQIA+ gyerekekért, Prizma Transgender Community, Szimpozion Association, Foundation for Rainbow Families, Hungarian Civil Liberties Union, Transvanilla (2022), Let’s cast an invalid vote on the ostracising referendum of the government ([Szavazzunk érvénytelenül a kormány kiközösítő népszavazásán!](#)), Amnesty International Hungary, 11 January 2022.

<sup>6</sup> Hungary, National Election Committee (*Nemzeti Választási Bizottság*), [Decision No. 327/2022 \(327/2022. NVB határozat\)](#), 8 April 2022; [Decision No. 328/2022 \(328/2022. NVB határozat\)](#), 8 April 2022; [Decision No. 329/2022 \(329/2022. NVB határozat\)](#), 8 April 2022.

<sup>7</sup> Hungary, National Election Committee (*Nemzeti Választási Bizottság*), [Decision No. 324/2022 \(324/2022. NVB határozat\)](#), 8 April 2022; [Decision No. 325/2022 \(325/2022. NVB határozat\)](#), 8 April 2022.

<sup>8</sup> Amnesty International Hungary et al. (2022), ‘[After the failed anti-LGBTIQ referendum, the government would silence NGOs with fines](#)’, 9 April 2022.

<sup>9</sup> Hungary, Curia (*Kúria*), [Decision no. Kvk.V.39.421 \(Kvk.V.39.421/2022/5. számú határozat\)](#), 15 April 2022 (re: Decision no. 325/2022); [Decision no. Kvk.V.39.422/2022/3 \(Kvk.V.39.422/2022/3. számú határozat\)](#), 15 April 2022 (re: Decision no. 327/2022); [Decision no. Kvk.IV.39.423/2022/6 \(Kvk.VI.39.423/2022/6. számú határozat\)](#), 15 April 2022 (re: Decision no. 329/2022). The decisions that confirmed the decisions of the National Election Committee: Curia (*Kúria*), [Decision no. Kvk.IV.39.419/2022/4 \(Kvk.IV.39.419/2022/4. Számú határozat\)](#), 13 April 2022 (re: Decision no. 324/2022); [Decision no. Kvk.IV.39.420/2022/4 \(Kvk.IV.39.420/2022/4. számú határozat\)](#), 15 April 2022 (re: Decision no. 328/2022).

<sup>10</sup> Council of Europe, Commissioner for Human Rights (2022), [Hungarian government must stop instrumentalising and weakening the human rights of LGBTI people](#), 13 January 2022.

<sup>11</sup> Hungary, Article 8-4 Fundamental Law of Hungary: “A national referendum shall be valid if more than half of all voters have cast valid votes”.

One year after the adoption of the controversial “family protection law”, which prohibits the display and promotion of LGBTIQ themes,<sup>12</sup> Háttér Society, the largest non-governmental organisation (NGO) representing LGBTIQ people in Hungary, issued a statement claiming that its legal service had received reports of anti-LGBTIQ violence, with perpetrators citing the law to support their views. Háttér Society had also received reports of self-censorship and fears or concerns as a result of the law, e.g. rainbow families fearing that their children would be taken from them. Others were concerned about whether or not they could hold hands with their partner in public, or whether they could be punished for social media posts. A teacher contacted the NGO fearing that they would violate the law if any LGBTIQ-related topics were discussed in class, and one kindergarten refused to let a child use a rainbow name tag.<sup>13</sup>

### **Other LGBTIQ-related cases**

One month after the adoption of the “family protection law”, a violent hate crime was perpetrated against a lesbian couple walking on a main street in Budapest. The perpetrator had made derogatory remarks, then pushed the couple between parking cars when they tried to sidestep him. In March 2022, that act of violence was sanctioned in a final criminal judgment, with the perpetrator sentenced to 20 months in prison, suspended for two years, in a summary judgement without trial (the first instance court found the case to be of low complexity and qualified the act as violence against a member of a community).<sup>14</sup>

Demonstrators dressed in black and protested at Budapest Pride in 2021, chanting derogatory phrases and making the Nazi salute. The Háttér Society reported the acts to the police, as threatening violence against member of a community. The police concluded that no crime was committed, leading Háttér to challenge that decision before the prosecution service. In a 2022 decision, the prosecution service found that the acts met the threshold for a suspected crime and ordered the police to investigate the case.<sup>15</sup>

Labrisz Lesbian Association and an individual organiser filed a lawsuit against the police for not acting to protect a story-telling event that was disturbed by extremists who prevented it from going ahead. Two complaints filed with the police were dismissed. In March 2022, on appeal, the Budapest Capital Tribunal found that the complaints were well-founded and upheld the applicants’ complaints, including violation of the right to freedom of assembly and expression, and the

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<sup>12</sup> See the condemnation in the resolution of the Parliamentary Assembly of the Council of Europe (PACE): PACE (2022), [‘Combating rising hate against LGBTI people in Europe, Resolution 2417 \(2022\)’](#), 25 January 2022.

<sup>13</sup> Háttér Society (2022), Rainbow-sign is banned even in the kindergarten – the propaganda law is one year old ([Már szivárvány-jel sem lehet az oviban - egy éves a propagandatörvény](#)), 15 June 2022.

<sup>14</sup> Háttér Society (2022), One year eight months for assaulting Lesbian couple ([Egy év nyolc hónap börtön egy leszbikus pár bántalmazásáért](#)), 10 June 2022.

<sup>15</sup> Háttér Society (2022), Prosecution: the police must investigate the Nazi salute at the Pride ([Ügyészség: vizsgálnia kell a rendőrségnek a náci karlendítést a Pride-on](#)), 14 July 2022.



individual organiser's right to free movement (their access to the event was blocked by demonstrators).<sup>16</sup>

In a consumer protection procedure, the Budapest Government Office sanctioned Labrisz as the publisher of the book "A Fairytale for Everyone" (*Meseország mindenkié*) for not providing adequate information on content including "non-conventional gender roles". In a 2022 judgment, the Budapest Capital Tribunal found the fact-finding and evaluation of the Budapest Government Office unclear and unlawful, annulled the decision, and ordered the Office to repeat the procedure.<sup>17</sup>

In February 2022, the Budapest-Capital Regional Court of Appeal overturned a lower court decision and rejected the petition of Labrisz Lesbian Association against the government-supporting daily *Magyar Nemzet* for equating Labrisz and its book "A Fairytale for Everyone" with paedophilia, quoting Prime Minister Viktor Orbán's public statement to that effect. The second-instance judgment found the claim to be protected opinion, and Labrisz has declared its intention to undertake a further legal challenge against the decision.<sup>18</sup> In a related lawsuit in June 2022, involving the same claim in a government-supporting online news portal, a different second-instance court, the Pécs Regional Court of Appeal confirmed the first-instance judgment that found the claim in the article to be misleading and obliging the portal to issue an apology and correct its statement. The appeal by the portal was dismissed.<sup>19</sup>

The Media Authority found that a Christmas-themed programme on the government-supporting channel PestiTV violated the prohibition on inhuman, degrading labelling and the protection of human dignity concerning trans people. The decision found four instances of such violation (one for dignity and one for degrading labelling, both for the TV programme and the related online content) and applied a fine of HUF 100,000 (€ 244) for each case.<sup>20</sup> Among other

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<sup>16</sup> Hungary, Budapest-Capital Tribunal (*Fővárosi Törvényszék*), [Judgment No. 22.K.706.480/2021/7 \(22.K.706.480/2021/7. sz. ítélet\)](#), 2 March 2022; representation was provided by Háttér Society and Hungarian Helsinki Committee. See related commentary from one of the plaintiffs: Labrisz Lesbian Association (2022), *Fairyland: Labrisz won lawsuits against both the government office and the police* ([Meseország: pert nyert a Labrisz a kormányhivatal és a rendőrség ellen is](#)).

<sup>17</sup> Hungary, Budapest-Capital Tribunal (*Fővárosi Törvényszék*), [Judgment No. 103.K.702.109/2021/15. \(103.K.702.109/2021/15. sz. ítélet\)](#), 28 February 2022; representation provided by Háttér Society and Hungarian Helsinki Committee. For a summary of the judgments, see Labrisz Lesbian Association (2022), *Fairyland: Labrisz won lawsuits against both the government office and the police* ([Meseország: pert nyert a Labrisz a kormányhivatal és a rendőrség ellen is](#)).

<sup>18</sup> Hungary, Budapest-Capital Regional Court of Appeal (*Fővárosi Ítéltábla*), [Judgment No. 2.Pf.20.897/2021/5/II. \(2.Pf.20.897/2021/5/II. sz. ítélet\)](#), 1 February 2022; representation provided by Hungarian Helsinki Committee, see related commentary: Hungarian Helsinki Committee (2022), *The false statement of the head of government proved to be decisive in a lawsuit today* ([A kormányfő hamis szövege perdöntőnek bizonyult egy mai perben](#)), 1 February 2022; and Labrisz Lesbian Association (2022), *Second-instance decision in the case of claiming paedophilia by Magyar Nemzet* ([Másodfokú döntés a Magyar Nemzet pedofilozása ügyében](#)).

<sup>19</sup> Hungary, Pécs Regional Court of Appeal (*Pécsi Ítéltábla*), [Judgment No. III.Pf.20.039/2022/4/I. \(III.Pf.20.039/2022/4/I. sz. ítélet\)](#), 13 June 2022.

<sup>20</sup> Hungary, Media Authority (*Médiahatóság*) (2022), [Decision No. 879/2022 of 25 October 2022 \(879/2022. \(X. 25.\) számú döntés\)](#).

statements, participants of the show referred to trans people as "it" ("ez"/"az") instead of the gender-neutral reference ("ő").<sup>21</sup>

In June 2022, a second-instance court confirmed the lower court's decision and declared that TV channel *RTL Klub* acted lawfully in showing spots produced by LGBTIQ NGOs Háttér Society and Foundation for Rainbow Families for their campaign called "Family is family" (*A család az család*). After reviewing the content of the clips – which campaigned for social acceptance of rainbow families – the Court argued that they did not promote anti-traditional family models or create frustration in minors. It held that the clips were in line with European standards (citing judgments of the European Court of Human Rights (ECtHR)) and confirmed the lower court's annulment of the decision issued by the Media Council of the National Media and Infocommunications Authority.<sup>22</sup>

The Budapest-Capital Government Office has rejected applications for the official recognition of gender change by trans and intersex people. As a result of an amendment in June 2020, such applications are no longer possible, but procedures that began before the entry into force of the new rule are unaffected, as confirmed by decisions of the Constitutional Court.<sup>23</sup> The Government Office continues to reject applications and has adopted a new strategy, relying on the procedural rule on injunction with immediate effect. A 2022 Curia decision found that this procedural rule cannot be used by a public institution but is primarily intended to protect plaintiffs whose rights are at stake and, as a result, rejected the petition of the Government Office. This means that the earlier court decision on gender change recognition should be implemented.<sup>24</sup> As a result, a number of Háttér Society clients who had applied for gender change recognition before the adoption of the 2020 amendment were finally granted that recognition and the Government Office ordered the registration of their sex and name in the birth register.<sup>25</sup>

Háttér Society and International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)-Europe filed a complaint with the European Commission for non-implementation of the Court of Justice of the European Union (CJEU) *Coman*

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<sup>21</sup> Háttér Society (2022), PestiTV was fined for transphobic, hate-mongering content ([Transzfób, gyűlöletkeltő tartalomért bírságolták meg a PestiTV-t](#)), 14 November 2022.

<sup>22</sup> Hungary, Budapest-Capital Regional Court of Appeal (*Fővárosi Ítéltábla*), [Judgment No. 1.Kf.700.069/2022/7. \(1.Kf.700.069/2022/7. sz. ítélet\)](#), 30 June 2022; see related commentary: Háttér Society (2022), *RTL Family is family (2021-) (RTL A család az család (2021-))*; the decision of the lower court: Budapest-Capital Tribunal (*Fővárosi Törvényszék*), [Judgment No. 109.K.701.081/2022/14. \(109.K.701.081/2022/14. sz. ítélet\)](#), 19 April 2022; see detailed commentary: Kádár, A. (2022), 'Court decision on LGBTIQ-themed commercial', *European Network of Legal Experts in Gender Equality and Non-discrimination*, 3 August 2022.

<sup>23</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 11/2021. \(IV. 7.\) \(11/2021. \(IV. 7.\) AB határozat\)](#), 7 April 2021; [Decision no. 3386/2021. \(X. 1.\) \(3386/2021. \(X. 1.\) AB határozat\)](#), 22 December 2021.

<sup>24</sup> Hungary, Curia (*Kúria*), [Court Order no. Kfv.VI.38.206/2021/3. \(Kfv.VI.38.206/2021/3. sz. végzés\)](#), 20 January 2022; see related commentary: Háttér Society (2022), *Curia: important decision in trans cases concerning injunction with immediate effect (Kúria: fontos döntés transz ügyben az azonnali jogvédelem kapcsán)*, 2 March 2022.

<sup>25</sup> Háttér Society (2022), ["My life can finally begin": after two years of legal struggle, Hungarian authorities allow legal gender recognition](#); according to media reports, five people were granted recognition (to early November 2022); Rédlí, B. (2022), *Government offices delay procedures for years, but five sex change applications have already been approved this week (A kormányhivatalok évekig elhúzzák az eljárásokat, de már öt nemváltoztatási kérelmet hagytak jóvá a héten)*, *RTL.hu*, 11 November 2022.

judgment<sup>26</sup> and Hungary's refusal to acknowledge the right to free movement of same-sex spouses based on a practice that refuses to recognise same-sex marriages and unions concluded abroad.<sup>27</sup>

The Budapest-Capital Government Office, at the initiative of Háttér Society, now includes registered partnerships (including for same-sex couples) in the public information materials on preferential naturalisation. Under Hungarian law (unchanged), the same-sex spouse of a Hungarian citizen living in a registered union (under Hungarian law) can naturalise after three years of residence, compared to the general rule of eight years.<sup>28</sup>

Following a 2021 amendment, same-sex couples cannot adopt children as a couple even if they live in a registered partnership, but one of them can apply as an individual. One partner in a same-sex couple was registered as qualifying for adoption in 2018, which was renewed by the district-level government office as part of an adoption procedure. The Budapest Government Office, however, reopened the case and the district office revoked its earlier decision. The Budapest Office then closed the adoption procedure. The couple took a case against the decision, supported by legal representation from the Hungarian Helsinki Committee, and became the face of the "family is family" campaign. In an unprecedented ruling, the Court found the decision of the Budapest Government Office to be unlawful, as it revoked a right that was already granted and could point to no similar practice in order to rebut the presumption of discrimination. The Budapest Government Office's decision was therefore annulled.<sup>29</sup>

In November 2022, following efforts from the Háttér Society, application forms for child adoption that contained misleading information (confusing bachelors and those living in partnerships (including registered partnerships and same-sex couples) who sought adoption individually).<sup>30</sup>

## Decisions on LGBTIQ health

The Háttér Society reported that, following a 2021 earlier decision by the Ombudsperson, as of 2022, men who have had sexual contact with other men are

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<sup>26</sup> CJEU (Grand Chamber), [Case C-673/16, Coman et al. v. Inspectoratul General pentru Imigrări et al.](#), 5 June 2018.

<sup>27</sup> Háttér Society (2022), The right to free movement is also valid for same-sex spouses, Hungary still refuses to comply with the judgement of the European Court of Justice ([Az azonos nemű házastársakra is érvényes a szabad mozgáshoz való jog. Magyarország mégsem tartja be az Európai Bíróság ítéletét](#)), 7 June 2022.

<sup>28</sup> Háttér Society (2022), Spouses in registered unions can also get Hungarian citizenship under preferential rules ([A bejegyzett élettársak is kedvezményesen szerezhettek magyar állampolgárságot](#)), 26 May 2022.

<sup>29</sup> Hungarian Helsinki Committee (2022), Nine months of anguish ended: The adoption procedure of the Government Office was discriminatory ([Kilenc hónapnyi szorongás ért véget: diszkriminatív volt a kormányhivatal örökbefogadási eljárása](#)), 17 November 2022; the judgement is not yet publicly available.

<sup>30</sup> Háttér Society (2022), Adoption forms changed for the better, information leaflets updated ([Kedvező irányba módosultak az örökbefogadási űrlapok, frissültek a tájékoztatók](#)), 3 November 2022.

no longer excluded from participation in blood plasma donation procedures, ending a long-standing discriminatory practice.<sup>31</sup>

As part of a European Union (EU)-funded study by the Háttér Society on LGBTIQ health,<sup>32</sup> the Ministry of Human Resources was petitioned under the rules on access to information of public interest to send national policy documents adopted in 2018 (National Child Health Programme, National Circulatory Programme, National Mental Health Programme, National Musculoskeletal Programme, National Cancer Programme). The Ministry denied the request, claiming that these were internal documents intended for executive decision-making. The Budapest-Capital Tribunal did not find the Ministry's arguments convincing and, in March 2022, ordered that the documents should be made available.<sup>33</sup>

## **Implementation of the EU LGBTIQ Equality Strategy 2020–2025**

The review shows that key developments undermine rather than support the implementation of the EU's LGBTIQ Equality Strategy 2020-2025. The European Commission found that the 2021 Hungarian law targeting paedophile offenders and LGBTIQ persons alike constitutes discrimination based on sexual orientation and gender identity and violates EU law. It goes against EU values on fundamental rights and equality (and EU Charter of Fundamental Rights), the Audiovisual Media Services Directive, the e-Commerce Directive, the Services Directive and related Treaty on the Functioning of the European Union (TFEU) provisions (Article 56), and the Single Market Transparency Directive. The Commission initiated an infringement procedure and referred Hungary to the CJEU for these violations.<sup>34</sup>

### **1.1.2 Socioeconomic status, health status and physical appearance**

#### **COVID-19-related discrimination**

In June 2022, the Commissioner for Fundamental Rights published a report reviewing anti-COVID-19 measures adopted in homeless services. The report provides an overview of related measures by seven entities,<sup>35</sup> including

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<sup>31</sup> Háttér Society (2022), No more distinction in practice of blood plasma donation by gay and bisexual men ([A gyakorlatban sincs már megkülönböztetés a meleg és biszexuális férfiak vérplazmaadása során](#)).

<sup>32</sup> Háttér Society (2021), [OpenDoors project](#).

<sup>33</sup> Representation provided by Hungarian Civil Liberties Union; Háttér Society (2022), Budapest-Capital Tribunal: the Ministry of Human Resources hides health policy programmes unlawfully ([Fővárosi Törvényszék: jogellenesen rejtegeti az EMMI az egészségügyi szakpolitikai programokat](#)), 9 March 2022.

<sup>34</sup> European Commission (2022), [Commission refers Hungary to the Court of Justice of the EU over violation of LGBTIQ rights](#), Press release, 15 July 2022.

<sup>35</sup> State Secretary for Social Affairs at the Ministry of Human Resources (*Emberi Erőforrások Minisztériuma Szociális Ügyekért felelős államtitkár*), Open Door Care Home of Hungarian Red Cross in Kaposvár (*Magyar Vöröskereszt kaposvári Nyitott Kapu Gondozási Központ*), Supporting Service for Homeless People in Győr (*Győri Hajléktalanokat Segítő Szolgálat*), TÁMASZ Foundation in Pécs (*Pécsi TÁMASZ Alapítvány*), Family Support and Child Welfare Centre in Békéscsaba (*Békéscsabai*

vaccination campaigns, protective measures, funding, and specific steps for refugees from Ukraine. It does not make recommendations, however.<sup>36</sup>

During 2022, the Constitutional Court rejected a series of applications claiming that COVID-19-related limitations violated fundamental rights and discriminated against those who refused vaccination: for people employed in the healthcare sector,<sup>37</sup> by the prosecutor's office,<sup>38</sup> local governments,<sup>39</sup> or those whose employer ordered mandatory vaccination based on a statutory mandate.<sup>40</sup>

The Constitutional Court also rejected a challenge against the government regulation on immunity certificates and related restrictions, which claimed a mismatch between people with COVID-19 immunity and those holding a certificate, leading to discriminatory distinctions. The Court applied a formal and restricted reading in claiming that the contested restrictions only indirectly related to the regulation of certificates and were based on a different law than that used by the applicant, and rejected the challenge accordingly.<sup>41</sup> Further constitutional challenges are under consideration.<sup>42</sup>

A paramedic received legal assistance from the Hungarian Helsinki Committee to challenge the provision denying severance pay for healthcare workers laid off for refusing vaccination. In April 2022, the Constitutional Court rejected the claim and the arguments that this is a violation of the right to property.<sup>43</sup> The Hungarian Helsinki Committee announced that it would file a petition with the ECtHR.<sup>44</sup>

## Other health-related discrimination

In March 2022, the Constitutional Court rejected the challenge of a fine issued by the Kecskemét Government Office (*Bács-Kiskun-Megyei Kormányhivatal Kecskeméti Járási Hivatala*) because the applicants did present their child for mandated infant vaccination, but, rather, presented a vaccination certificate issued by an Austrian doctor, seeking exemption from mandatory vaccination in the child's school. The Court considered efficiency arguments in respect of

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*Családsegítő és Gyermekjóléti Központ*), Hungarian Charity Service of the Order of Malta (*Máltai Szeretet Szolgálat*), Mayor of Budapest Capital (*Budapest Főváros polgármestere*).

<sup>36</sup> Hungary, Commissioner for Fundamental Rights (*Alapvető jogok biztosa*), [Report in case No. AJB-430/2022 \(Jelentés az AJB-430/2022. sz. ügyben\)](#), 1 June 2022.

<sup>37</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3537/2021. \(XII. 22.\) \(3537/2021. \(XII. 22.\) AB végzés\)](#), 22 December 2021.

<sup>38</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3158/2022. \(IV. 12.\) \(3158/2022. \(IV. 12.\) AB végzés\)](#), 12 April 2022.

<sup>39</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3128/2022. \(IV. 1.\) \(3128/2022. \(IV. 1.\) AB hat.\)](#), 1 April 2022.

<sup>40</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3088/2022. \(III. 10.\) \(3088/2022. \(III. 10.\) AB végzés\)](#), 10 March 2022.

<sup>41</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3133/2022. \(IV. 1.\) \(3133/2022. \(IV. 1.\) AB végzés\)](#), 1 April 2022.

<sup>42</sup> See the full list at [https://alkotmanybirosag.hu/uploads/2022/05/inditvanyok\\_veszelyhelyzet\\_szignalt\\_2022\\_05\\_20.pdf](https://alkotmanybirosag.hu/uploads/2022/05/inditvanyok_veszelyhelyzet_szignalt_2022_05_20.pdf).

<sup>43</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3192/2022. \(IV. 29.\) \(3192/2022. \(IV. 29.\) AB határozat\)](#), 1 April 2022.

<sup>44</sup> Hungarian Helsinki Committee (2022), [The healthcare severance pay that was taken away could be recovered in Strasbourg \(Strasbourgban lehet meg az elvett egészségügyi végkielégítés\)](#).

mandatory vaccination campaigns in schools, and found that the “fundamental rights violation” was proportional to the legitimate aim and duly rejected the challenge.<sup>45</sup>

In two cases in 2022, the Commissioner for Fundamental Rights found violations in hospitals’ procedures in emergency treatment in psychiatry departments, including not following statutory procedures, lack of documentation, and other irregularities.<sup>46</sup> The cases involved serious constraints on personal liberty, as patients were unable to refuse medical treatment or leave the institutions, and complained, variously, about sexual harassment, not getting food or drink, and other maltreatment.

A May 2022 judgment of the Budapest-Capital Tribunal recognised the right to contact between the mother and her new-born. The Hungarian Civil Liberties Union started legal proceedings in a case where a hospital seriously restricted contact after a premature birth, to two times half an hour, on 15–16 September 2017. While the parents decided to move to a different hospital where contact was allowed (6–10 hours per day), they reported signs that the child was traumatised with long-lasting consequences and decided to seek legal remedies. The judgment confirmed the right to contact that can only be restricted with good reasons and in a proportionate manner and found a related violation of the personality rights of the mother. The Tribunal, however, did not award the remedy sought by the litigant (HUF 800,000, approx. € 2,000) arguing that the restriction was short and justified to a certain extent, based on the child’s health condition, and that the harm and the connection between the alleged traumatic effects and the violations were not proven.<sup>47</sup>

In a June 2022 report, the Commissioner for Fundamental Rights indicated serious concerns about the right to health, as basic dentist services were not available in the village of Tardona for two years. The Commissioner recommended that the minister responsible for health should delegate administrative responsibility for designating a temporary provider of healthcare services.<sup>48</sup>

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<sup>45</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3114/2022. \(III. 23.\) \(3114/2022. \(III. 23.\) AB hat.\)](#), 10 March 2022.

<sup>46</sup> Hungary, Commissioner for Fundamental Rights (*Alapvető jogok biztosa*), Report in case no. AJB-66/2022 regarding psychiatric treatment ([Jelentés az AJB-66/2022. számú ügyben pszichiátriai ellátással összefüggésben](#)), 22 March 2022; Report in case no. AJB-2134/2022 regarding psychiatric treatment ([Jelentés az AJB-2134/2022. számú ügyben pszichiátriaellátással összefüggésben](#)), 12 July 2022.

<sup>47</sup> Hungary, Budapest-Capital Tribunal (*Fővárosi Törvényszék*), [Judgment no. P.22.032/2021/17. \(22.P.22.032/2021/17. sz. ítélet\)](#), 26 May 2022. For related reporting by the NGO that provided legal representation see: Hungarian Civil Liberties Union (*Társaság a Szabadságjogokért*), [Mother who was separated from her newborn for two days wins lawsuit against hospital \(Pert nyert a kórházzal szemben az édesanya, akit két napra elszakítottak újszülöttjétől\)](#), 28 December 2022.

<sup>48</sup> Hungary, Commissioner for Fundamental Rights (*Alapvető jogok biztosa*), Report in case AJB-1630/2022 regarding the lack of basic dentist services ([Jelentés az AJB-1630/2022. számú ügyben a fogászati alapellátás hiányával összefüggésben](#)), 2 June 2022.

## Discrimination based on socioeconomic status

In March 2022, the Constitutional Court rejected a challenge by opposition Members of Parliament (MPs) against certain legal provisions on public health care services.<sup>49</sup> The applicants claimed that the legislative change whereby non-payment of mandatory social security contributions can lead to considerably higher fees, violates human dignity, equal treatment, the right to property and to social security, as it undermines the self-supporting ability of the least well-off. The Court applied a formal standard to the argument on equal treatment, arguing that the regulations do not differentiate based on the financial situation of those not paying their social security contributions, and “[g]iven that there was no different treatment, there could not be a violation of equality before the law”.<sup>50</sup>

The law on social administration and social services was amended to restrict related state responsibilities. Article 2 of the 1993 law had stipulated that social care is the responsibility “beyond individuals themselves, their families, and the local communities, of the central authorities of the state and of the local self-governments”<sup>51</sup>. The amendment, adopted as part of an omnibus law, replaced the one-sentence definition with a detailed, six-paragraph list that, first, states that the everyone bears responsibility for themselves. The second paragraph adds that where individuals are not capable for caring for themselves, their relatives must help them. The third paragraph adds that where this does not happen, the local self-government must provide social care. If this also does not materialise, the state fulfils the obligations provided by law. The fifth paragraph states that the state and local self-governments cooperate with church and civil organisations. The sixth and final paragraph specifies that the state and local self-governments create and maintain social institutions and services as defined by the law.<sup>52</sup> (Note that the original draft would have moved the responsibilities of the state even further down the list, creating obligations for “caritative organisations that receive state funding” before acknowledging, in the consecutive paragraph, the responsibilities of the state.<sup>53</sup>) A group of opposition MPs voiced concerns by staging a 22-hour obstruction in the Parliament (taking turn with long speeches on the floor). Concerns have mainly focused on the limited state responsibilities at a time when social difficulties are increasing and thus the burden will fall most heavily on those in need.<sup>54</sup>

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<sup>49</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3087/2022. \(III. 10.\) \(3087/2022. \(III. 10.\) AB hat.](#)), 10 March 2022.

<sup>50</sup> Hungary, Constitutional Court (*Alkotmánybíróság*), [Decision no. 3087/2022. \(III. 10.\) \(3087/2022. \(III. 10.\) AB hat.](#)), 10 March 2022, Para. [83].

<sup>51</sup> Hungary, Act No. 3 of 1993 on social administration and social services ([1993. évi III. törvény a szociális igazgatásról és szociális ellátásokról](#)).

<sup>52</sup> Hungary, Act No. 3 of 1993 on social administration and social services ([1993. évi III. törvény a szociális igazgatásról és szociális ellátásokról](#)), as last amended by Act No. 50 of 2022.

<sup>53</sup> Hungary, Office of the Prime Minister (*Miniszterelnökség*), [Bill no. T/1620](#), Art. 13, 18 October 2022.

<sup>54</sup> See e.g. Pálos, M. (2022), The Hungarian state is taking less and less responsibility for those in need while the EU would strengthen the social safety net ([A magyar állam egyre kevésbé vállal felelősséget az elesettekért, az EU viszont erősítené a szociális hálót](#)), 18 November 2022.

### **1.1.2 General (cross-cutting) legal and policy developments**

In July 2022, the government submitted a legislative proposal for amending the laws related to public participation and law-making “in the interest of reaching an agreement with the European Commission”.<sup>55</sup> Civil rights NGOs criticised the proposal for failing to show real commitment on the otherwise commendable goals and for not providing adequate guarantees for public participation.<sup>56</sup> This affects civil actors, including NGOs active in the equality field.

The European Parliament adopted a resolution that notes the lack of independence of some of the public institutions mentioned here, notably the Constitutional Court and the Curia.<sup>57</sup> The United Nations Global Alliance of National Human Rights Institutions (GANHRI) downgraded the status of the Ombudsperson’s office (Office of the Commissioner for Fundamental Rights) to “B – partially compliant”.<sup>58</sup> These developments show that these bodies do not fulfil the rule of law requirements commonly associated with similar bodies in other countries.

The 10th amendment to the Fundamental Law created a new legal ground for declaring a state of danger in the event of armed conflict in a neighbouring country<sup>59</sup>.

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socioeconomic status, health status and physical appearance**

A study published in 2022 found that transgender people have different experiences in the labour market and in organisations. Before the outbreak of COVID-19, semi-structured in-depth interviews were carried out with 11 transgender people, most aged between 23 and 30, selected from a social media group of a transgender organisation. They reported that their work experiences depended on whether they were identified by their environment as women or men,

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<sup>55</sup> Hungary, Office of the Prime Minister (*Miniszterelnökség*), [Bill T/705](#), submitted on 19 July 2022.

<sup>56</sup> Amnesty International Hungary, Clean Air Action Group, Háttér Society, Human Platform Association, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, K-Monitor, Ökotárs Foundation, Stop Killer Robots, Transparency International Hungary (2022), [‘The Government’s bill on public consultation does not offer real solutions’](#), 27 July 2022.

<sup>57</sup> European Parliament (2022), [‘Resolution on the Existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded’](#), 2018/0902R(NLE), 15 September 2022.

<sup>58</sup> Global Alliance of National Human Rights Institutions (GANHRI) (2022), [Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation \(SCA\)](#) 14–25 March 2022; and [accreditation status](#).

<sup>59</sup> Hungary, 10<sup>th</sup> amendment to the Fundamental Law ([Magyarország Alaptörvényének tizedik módosítása](#)), 24 May 2022.



and noted that they often worked in homophobic and transphobic environments, negatively affecting their mental health.<sup>60</sup>

An interview-based research study published in 2022 found no significant change in perceptions of poverty due to the COVID-19 pandemic. In both 2019 and 2020, respondents identified poverty a monthly income under HUF 87,000 (€ 213), without friends, relatives or 'acquaintance with good intentions', with three or more children, and without an education level of at least eighth grade. The interviewees were from Borsod-Abaúj-Zemplén county and were selected through multistage stratified sampling. The methodology combined open-list answers (41 and 88 respondents for 2019 and 2020, respectively) and structured interviews (19 and 29, respectively).<sup>61</sup>

A 2022 public law study summarised the impact of the COVID-19 pandemic on vulnerable groups in Hungary, specifically Roma and LGBTIQ people. It documented the negative political and policy developments that it claimed have dominated since the outbreak of the pandemic, instead of measures acknowledging and addressing the special vulnerability of the most exposed groups. In addition to reviewing the anti-LGBTIQ policies, it discussed three laws adopted in Hungary during the COVID-19 pandemic that played on anti-Roma sentiments: legislation against compensation as a remedy against school segregation in the context of a Roma case; plans to curb or eliminate compensation for prisoners for the violations of European Convention on Human Rights (ECHR) standards (e.g. overcrowding), often illustrated by Roma prisoners; and the introduction of school guards, justified by problems of integration, again associated with Roma.<sup>62</sup>

A cognitive-science study published in 2022 examined data from 2,651 secondary school students (data collection from 2018) for possible connections between sexual orientation and various indicators of mental health. The study found that same-sex orientation came with a higher risk of suicidal ideation and cannabis use, while bisexuality showed higher risks for almost all indicators (lower levels of self-reported mental health, life satisfaction, self-esteem, satisfaction with own body; higher levels of psychosomatic symptoms and suicidal thoughts; higher levels for use of alcohol or cannabis in the last 30 days, regular smoking, ongoing efforts to decrease body weight; lower levels of peer, teacher and family support;

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<sup>60</sup> Pelyhe, V. and Primecz, H. (2022), 'Gender roles in the labour market and organisations from the perspective of transgender people – an interview-based qualitative study ([Nemi szerepek a munkaerőpiacon és a szervezetekben a transznemű emberek szemszögéből: Egy interjú kvalitatív kutatás](#))', *Vezetéstudomány/Budapest Management Review*, Vol. 53, No. 8-9, pp. 176-187.

<sup>61</sup> Siposné Nándori, E. (2022), Subjective poverty thresholds during the COVID-19 pandemic through the example of a disadvantaged county ([Szubjektív szegénységi küszöbök alakulása a COVID-19 járvány idején egy hátrányos helyzetű megye példáján keresztül](#)), in Reisinger, A., Dernóczy-Polyák, A., Printz-Markó, E. and Buics, L. (Eds.), *Innovation, digital transformation and the paths to overcome the crisis (Innováció, digitális transzformáció és a válságból való kilábalás útjai)*, Győr, Széchenyi István Egyetem (Széchenyi István University), 11.

<sup>62</sup> Szajbély, K. and Török, T. (2022), 'The effects of COVID-19 pandemics on members of vulnerable groups, especially LGBT and Roma people (A koronavírus-világjárvány hatása a sérülékeny csoportokra, kiemelt figyelemmel a roma és az LMBT-emberek helyzetére)', *Közjogi Szemle/Public Law Review*, Vol. 2, pp. 32-40.

higher levels of exposure to bullying and cyberbullying). The authors concluded that the findings confirm health inequalities that are coherent with theories of minority stress, structural stigma and romantic stress, underlining the importance of professional institutional assistance to at-risk individuals.<sup>63</sup>

A recently published book on the experiences on LGBTQ people in sport contains a chapter on discrimination based on sexual orientation in sports in Europe, including in Hungary, and organising efforts to counter these trends.<sup>64</sup>

A 2022 study documented how genderphobia, including anti-LGBTIQ policies and rhetoric, have become part of the current Hungarian political regime. The authors report that coverage of child protection issues in government-supporting media was supplanted by an exclusive focus on anti-LGBTIQ messaging, suggesting an opposition between LGBTIQ existence and the protection of children and families. The study presented developments in children's literature (the publication of materials raising awareness about LGBTIQ issues and promoting inclusion) as an important field of resistance to genderphobia.<sup>65</sup>

The Háttér Society reported that Hungary had fallen three places on the Rainbow Map of ILGA-Europe, citing an increase in hate crime, restrictions on adoption, and the effects of the "family protection law".<sup>66</sup> The underlying study, the 2022 Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia, reviewed LGBTIQ-relevant developments from 2021, including a three-page summary on Hungary.<sup>67</sup>

In 2022, the Global Interfaith Commission on LGBT+ Lives (GIC+) conducted research on 'conversion therapy' in Hungary.<sup>68</sup> According to the finding of the research, conversion therapy is harmful and abusive, and there are a significantly higher levels of suicide attempts, suicidal thoughts and self-harm experienced by those who have undergone 'conversion therapy'. The report recommends that the government "must prioritise and fund programmes to engage and educate people on the dangers of 'conversion therapy'".<sup>69</sup>

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<sup>63</sup> Költő, A., Várnai, D. E. and Németh, Á. (2022), 'The health and well-being of Hungarian young people from sexual minorities (*A szexuális kisebbségekhez tartozó magyar fiatalok egészsége és jólléte*)', *Hungarian Psychological Review/Magyar Pszichológiai Szemle*, Vol. 77, No. 1, pp. 1-27.

<sup>64</sup> Szlávi, A. (2022), 'LGBTQ people and the influence of gender in sports in Hungary', In *Sport, Identity and Inclusion in Europe*, Routledge, pp. 93-103.

<sup>65</sup> Takács, J., Fobear, K. and Schmitsek, S. (2022), '*Resisting genderphobia in Hungary*', *Politics and Governance*, Vol. 10, No. 4, pp. 38-48.

<sup>66</sup> Háttér Society (2022), Hungary Slips Three Places on the ILGA-Europe Rainbow Europe Map (*Három helyet csúszott hátra Magyarország az ILGA-Europe Szivárvány Európa térképén*); See the [list](#).

<sup>67</sup> ILGA-Europe (2022), '*Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*', pp. 71-73.

<sup>68</sup> The Global Interfaith Commission on LGBT+ Lives (2022), [2022 Hungarian conversion therapy research](#), March 2022.

<sup>69</sup> The Global Interfaith Commission on LGBT+ Lives (2022), [2022 Hungarian conversion therapy research](#), March 2022, p. 3.

## 2. Racism, xenophobia and related intolerance

### 2.1 Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

In 2022, official communication on the **COVID-19 pandemic** continued to reflect a nativist, anti-immigrant approach. As argued by Batory, “[t]he first manifestation of this was classic xenophobia”<sup>70</sup> linking the spread of the virus to immigrants. Similarly, a 2022 European Parliament study found that “[d]uring the COVID-19 pandemic, ideological support for xenophobic nationalism in Hungary has increased” especially in the form of growing anti-Asian racism.<sup>71</sup> Disparities along ethnic lines were confirmed by the findings of a nationwide cross-sectional study on the access of primarily Roma communities living in segregated colonies to “fair effectiveness of COVID-19 vaccinations”. The study concluded that “437 of the 938 investigated settlements showed significant local vaccination disparities.”<sup>72</sup>

Another study of machine learning techniques and linguistic features assessed the responsiveness of local governments to information requests by Roma and non-Roma clients. It found higher levels of **attention discrimination against Roma** clients, especially male clients and those living in smaller settlements.<sup>73</sup>

Looking more broadly at discrimination across Europe, the results of large cross-national multi-level studies have confirmed the correlation between higher majority **perceptions of discrimination** and higher minority political participation, but, importantly, not with higher rates of actual minority discrimination. The first study focused on discrimination and its perception by the majority in the context of racial, ethnic and/or religious minorities. The second study analysed survey answers in the context of discrimination or maltreatment of immigrants as obstacles to their integration, while also calculating country-level minority political participation. Both studies drew on European Social Survey country-level data and Eurobarometer individual-level data, with a total of 19,392 participants in 22 countries in study 1, and 17,651 participants in 19 countries in study 2, including Hungary.<sup>74</sup>

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<sup>70</sup> Batory, A. (2022), [‘More power, less support: the Fidesz government and the Coronavirus pandemic in Hungary’](#), *Government and Opposition*, Cambridge, Cambridge University Press.

<sup>71</sup> European Parliament, Policy Department for Citizens’ Rights and Constitutional Affairs, Directorate-General for Internal Policies (2022), [Protection against racism, xenophobia and racial discrimination, and the EU Anti-racism Action Plan](#), p. 185.

<sup>72</sup> Sandor J., Vincze, F., Shrikant, M.L., Kőrösi, L., Ulicska, L., Kósa, K. and Ádány, R. (2022), [‘COVID-19 vaccination coverage in deprived populations living in segregated colonies: A nationwide cross-sectional study in Hungary’](#), *PLoS One*, Vol. 17, No. 2.

<sup>73</sup> Buda J., Németh, R., Simonovits, B. and Simonovits, G. (2022), [‘The language of discrimination: assessing attention discrimination by Hungarian local governments’](#), *Language Resources and Evaluation*, Springer.

<sup>74</sup> Kende J., Reiter, J., Coskan, C., Doosje, B. and Green, E.G.T. (2022), [‘The role of minority discrimination and political participation in shaping majority perceptions of discrimination: Two cross-national studies’](#), *Group Processes and Intergroup Relations*.

**A hate crime** was reported against a Ukrainian refugee, who was seriously assaulted in the city of Tatabánya, due to his nationality, as reported by the Hate Crime Working Group (comprising of NGOs working against hate crime in Hungary).<sup>75</sup> The case is being investigated and the perpetrator is in custody on the suspicion of committing the crime of “violence against a member of the community”, as per Article 216 of the Penal Code, via abuse and the infliction of serious bodily harm.

In 2022, the United Nations Refugee Agency (UNHCR) chief warned about the “discrimination, violence and racism” against primarily non-Ukrainians fleeing the war.<sup>76</sup> In Hungary, in particular, the discriminatory access to territory, as well as to reception conditions of **Roma people fleeing Ukraine**, has been documented.<sup>77</sup> Their vulnerability is exacerbated by the fact that approximately 10-20% of them are **stateless** or at risk of statelessness.<sup>78</sup> Romaversitas, a leading Roma-led community education organisation, in December 2022 issued its Assessment Report on the experience of widespread discrimination of Transcarpathian Roma displaced persons in Hungary. Based on 161 interviews with Roma families who fled Ukraine since the beginning of the war, the researchers concluded that these experiences show “hidden and overt mechanisms of ethnic discrimination and segregated placement”<sup>79</sup>, among others, in the context of access to housing, education or health care. The Assessment Report underlined that “Romani activists have also complained to the Ombudsman about cases of discrimination. Still [...] the Ombudsman did not propose investigating the violations based on the complaints.”<sup>80</sup> These findings are aligned with the continued prejudice and mutual mistrust between healthcare providers and Roma patients reported by the European Roma Grassroots Organisations (ERGO) Network,<sup>81</sup> based on data collection carried out between April and September 2022 and, in the Hungarian context, informed by the case study developed by the Autonómia Foundation.<sup>82</sup> The limitations of these reports are noted due to the lack of disaggregated data, even though such data “could serve as a proactive tool for easing health disparities in the country” as argued in a recent article in the Journal on Ethnopolitics and Minority Issues in Europe.<sup>83</sup>

These practices take place within a broader context characterised by **institutionalised double standards** in the treatment of refugees from Ukraine and those arriving from outside Europe.<sup>84</sup> Hungary’s eastern border is open for refugees from Ukraine, whereas its southern border with Serbia remains closed,

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<sup>75</sup> Hungary, Hate Crime Working Group (*A Gyűlölet-bűncselekmények Elleni Munkacsoport*) (2022), [Abuse in Tatabanya of a Ukrainian man \(Tatabánya ukrán férfi bántalmazása\)](#).

<sup>76</sup> UN (2022), [UNHCR chief condemns “discrimination, violence and racism” against some fleeing Ukraine](#).

<sup>77</sup> Euroactive (2022), [Faced with discrimination, Ukrainian Roma refugees are going home](#).

<sup>78</sup> European Network on Statelessness (2022), [Stateless people and people at risk of statelessness forcibly displaced from Ukraine](#), Briefing.

<sup>79</sup> Romaversitas (2022), [The Situation of Transcarpathian Romania Families Fleeing from Ukraine to Hungary](#), p 43.

<sup>80</sup> Romaversitas (2022), [The Situation of Transcarpathian Romania Families Fleeing from Ukraine to Hungary](#), p 7.

<sup>81</sup> European Roma Grassroots Organisations (ERGO) Network (2022), [Roma Access to Healthcare and Long-term Care in Bulgaria, the Czech Republic, Hungary, Romania, Slovakia, and Spain](#).

<sup>82</sup> Autonómia Foundation (2022), [Roma access to quality, inclusive and affordable health and long-term care in Hungary](#).

<sup>83</sup> Koller, I. Z. (2022), [Health Disparities and Ethnic Classification in Hungary, Journal on Ethnopolitics and Minority Issues in Europe, 21\(1\), 23–43](#).

<sup>84</sup> Global Detention Project (2022), [The Ukraine crisis: double standards – has Europe’s response to refugees changed?](#).

with the extension of the so-called “embassy procedure” until 31 December 2022.<sup>85</sup> Accordingly, territorial asylum is continued to be suspended in Hungary and asylum-seekers can only submit a declaration of intent in the embassies in Kyiv or Belgrade without having the right to enter the country. Those who attempt to enter are “escorted” to the Serbian side of the border. The 2022 Recommendations of the Council of Europe’s Commissioner of Human Rights, Dunja Mijatović, reported that Hungary’s **pushbacks** to Serbia are one of the main human rights violations that require urgent action.<sup>86</sup>

These trends fit within a broader nativist narrative that was evident in the 25 July 2022 speech of the Hungarian Prime Minister, in which he stated that “[t]here is a world in which European peoples are mixed together with those arriving from outside Europe. Now that is a mixed-race world. And there is our world, where people from within Europe mix with one another, move around, work, and relocate. [...]. This is why we have always fought: we are willing to mix with one another, but **we do not want to become peoples of mixed-race.**”<sup>87</sup> The speech was widely denounced, including by the Conference of Presidents of the European Parliament, which condemned the “openly racist declaration by Prime Minister Orbán”.<sup>88</sup>

The Prime Minister reiterated this stance during the inauguration of Hungary’s “border hunters” on 9 September 2022, claiming that “the whole country is behind them, every Hungarian family, every Hungarian child, our cities and villages. Thus, the task of protecting the country against migration falls on them... **The threat of migration is so significant that preventing it is the number one task of the country. ... migration is a threat to civilisation,** and we can see from the example of Western Europe that it is enough to make a mistake once, because once they settle, there is no turning back the clock, and life will never be the same again. **What we want, and it is our birth right to do so, for Hungary to remain a Hungarian country.**”<sup>89</sup> Intensifying his **war rhetoric**, a week later, the Prime Minister “commemorated the seventh anniversary of the Battle of Röszke”,<sup>90</sup> referring to the arrival of a high number of asylum seekers and migrants to the Hungarian border in 2015 due to the war in Syria. On 29 December 2022, the duties of the soldiers at the Serbian-Hungarian border, characterised by Bence Rétvári, the Parliamentary State Secretary of the Ministry of the Interior as the “most attacked border sections of the European Union”, were taken over by the members of the border hunting regiment.<sup>91</sup> In line of the war rhetoric of the

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<sup>85</sup> Hungarian Helsinki Committee (2022), AIDA: Asylum Information Database: [Country Report: Hungary, 2021 Update](#), p. 23.

<sup>86</sup> Council of Europe, Commissioner of Human Rights (2022), [Pushed beyond the limits Four areas for urgent action to end human rights violations at Europe’s borders](#), p. 20.

<sup>87</sup> About Hungary (2022), [Speech by Prime Minister Viktor Orbán at the 31st Bálványos Summer Free University and Student Camp](#) [emphasis to the quote added by the author of this Chapter].

<sup>88</sup> European Parliament (2022), [Statement of the Conference of Presidents](#), Press release, 29 July 2022.

<sup>89</sup> HVG (2022), “Viktor Orbán at the inauguration of the border hunters: ‘[Migrants must understand that they cannot come through here anyway](#)’” (Orbán Viktor a határvadász-avatón: „A migránsoknak meg kell érteniük, hogy itt úgysem jöhetnek át”).

<sup>90</sup> Prime Minister’s Facebook account, [RÖSZKE 2015](#), 16 September 2022 [emphasis to the quote added by the author of this Chapter].

<sup>91</sup> Government of Hungary, [The Border Hunters took over the tasks of the soldiers on the Southern border](#) (A határvadászok átvették a katonák feladatait a déli határon), 29 December 2022

Orbán government, this is a major step moving from traditional border protection functions toward the institutionalisation of the *de facto* mass pushbacks at the southern border. As PM Orbán put it at the border hunters' inauguration: "The migrants must understand that they cannot cross here anyway, and it is you [the border hunters] who must make them understand this, because you are the border hunters who will **stop them, search for them, if necessary, find them, intercept them and force them out of Hungary. One by one. No exceptions.**"<sup>92</sup> Accordingly, it is the very mission of the border hunters to force migrants out of the country *en masse* – without the examination of their individual protection needs in a legal procedure with due process guarantees, including a judicial review.

## **2.2 Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive**

In 2022, there were no amendments either to the Equal Treatment Act,<sup>93</sup> which is the main transposing measure of the **Racial Equality Directive (RED)**, or to Articles 216 and 332 of the Criminal Code, on violence against a member of the community and incitement against a community, respectively, within the meaning of the **Framework Decision**.<sup>94</sup>

In 2022, 66 cases referenced the Equal Treatment Act, 18 of which were decisions handed down by the Curia, the highest judicial authority in Hungary. Only one **Curia case** dealt with discrimination claims on the ground of race or ethnicity. The central question of the case on whether the Equal Treatment Authority has competence to rule over a government policy i.e., whether the Equal Treatment Act applies to the Hungarian government, was sent back for reconsideration to a lower court (see Annex 2). At the same time, the ruling confirmed the decision of the then Equal Treatment Authority on the merits of the case. The Authority found that the posters displayed throughout the country by the government and the Cabinet Office of the Prime Minister, showing asylum seekers with dark skin, mostly of Arab ethnic origin, marching behind a STOP sign, did not violate the Equal Treatment Act. The petitioner claimed that the posters constituted harassment against people of Middle Eastern, South Asian, North African, Arab ethnic origin. However, the Authority found no violation, arguing that the information campaign did not violate human dignity, did not refer to persons with

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<sup>92</sup> Government of Hungary, [Orbán Viktor's Speech at the Inauguration of the Border Hunters](#) (*Orbán Viktor beszéde a határvasdászok eskütételén*), 9 September 2022 [emphasis to the quote added by the author of this Chapter].

<sup>93</sup> Hungary, Act CXXV of 2003 on equal treatment and the promotion of equal opportunities ([2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról](#)).

<sup>94</sup> Hungary, Act C of 2012 on the Criminal Code ([2012. évi C. törvény a Büntető Törvénykönyvről](#)).

protected characteristics, and their purpose or effect was not to create a hostile, intimidating or degrading environment.<sup>95</sup>

In terms of **policy developments**, Hungary's strategy against racism, xenophobia and ethnic discrimination is embedded in its National Social Inclusion Strategy 2030,<sup>96</sup> which is implemented by Government Decision No. 1619/2021.<sup>97</sup> Since the promulgation of the Implementing Decision on 3 September 2021,<sup>98</sup> the responsible ministers did not have to report on the tasks in the Strategy. As part of their monitoring duties, the ministers will have to report to the Minister of Interior for the first time by 1 March 2023 and then biannually. The Minister of Interior will then prepare a progress report on the Strategy's implementation every two years.

The **national authority** responsible for matters falling under the material scope of the RED is the Directorate-General Responsible for Equal Treatment within the Office of the Commissioner for Fundamental Rights (CFR) (*Alapvető Jogok Biztosának Hivatala, Egyenlő Bánásmódot Felelős Főigazgatóság*). It should be noted that the Global Alliance of Human Rights Institutions (GANHRI) downgraded the Authority to Category B - "Partially compliant with the Paris Principles" in its 27 April 2022 Accreditation Status of National Institutions.<sup>99</sup> As explained by in the GANHRI Report, "the CFR has not effectively engaged on and publicly addressed all human rights issues, including in relation to vulnerable groups such as ethnic minorities, LGBTI, refugees and migrants as well as constitutional court cases deemed political and institutional, media pluralism, civic space and judicial independence".<sup>100</sup> A September 2022 Minority Rights Group Report examined the results of the 'EU's Roma Equality through Increased Legal Access' project and warned that "the legal case workers' views on the attitude of the current Authority is that the approach to complainants has deteriorated: the majority of discrimination cases filed are either rejected or the case is dismissed."<sup>101</sup>

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<sup>95</sup> Hungary, Curia (*Kúria*), Case [Kfv.V.37.295/2022/8](#), 16 June 2022, para. 11.

<sup>96</sup> Hungary, National Social Inclusion Strategy 2030 ([Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030](#)).

<sup>97</sup> Hungary, Government Decision 1619/2021 (IX. 3.) on the Government Action Plan for the implementation of the Hungarian National Social Inclusion Strategy 2030 for the years 2021-2024 ([1619/2021. \(IX. 3.\) Korm. határozat a Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030 végrehajtásának a 2021-2024. évekre szóló kormányzati intézkedési tervéről](#)).

<sup>98</sup> Hungary, Official Gazette, 162, Issue of 2021, 3 September 2021, pp. 7615-7627 (Magyar Közlöny; 2021. évi 162. szám; 2021. szeptember 3., 7615-7627. o.).

<sup>99</sup> UN Office of the High Commissioner and GANHRI (2022), [Chart of the status of national institutions accredited by the Global Alliance of National Human Rights Institutions](#), Accreditation status as of 27 April 2022.

<sup>100</sup> Global Alliance Of National Human Rights Institutions (GANHRI) (2022), [Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation \(SCA\)](#), 14-25 March 2022, p 44.

<sup>101</sup> Minority Rights Group (2022), Strengthening trust in equality: Improving access to justice for Roma in Hungary and Serbia ([Jelentés: Az egyenlőségbe vetett bizalom megerősítése: A romák igazságszolgáltatáshoz való hozzáféréseinek fejlesztése Magyarországon és Szerbiában](#)), p. 19.

## 3. Roma equality and inclusion

### 3.1 Policy developments in regard to the implementation of national action plans

Development regarding the implementation of the action plans	
Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink	Yes/No/Other (please specify) Government Decision no. 1619/2021 of 3 September 2021 on the Government's Action Plan for the implementation of the Hungarian National Integration (Catching-Up) Strategy 2030 for the years 2021–2024 (1619/2021. (IX. 3.) Korm. határozat a Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030 végrehajtásának a 2021–2024. évekre szóló kormányzati intézkedési tervéről), available at: <a href="https://romagov.hu/wp-content/uploads/2021/12/1619_2021-korm-hat-intezkedesi-terv-1.docx">https://romagov.hu/wp-content/uploads/2021/12/1619_2021-korm-hat-intezkedesi-terv-1.docx</a>
How were Roma and Traveller civil society organisations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organisations)?	The Deputy State Secretariat for Social Catching-up of the Ministry of Interior reported that direct consultations were conducted with 30 organisations, including the Deputy Commissioner for the Rights of Nationalities Living in Hungary, and 40 organisations submitted comments. <sup>102</sup> It is unclear whether this also meant consultation concerning the Action Plan or only the Strategy itself (see also the response of the Ombuds institution below).
Was the equality body, the National Human Rights Institution (NHRI) and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the equality body, NHRI and Ombuds institution)?	The Office of the Commissioner for Fundamental Rights (which took over the competences of the abolished Equal Treatment Authority) includes the Deputy Commissioner for the Rights of Nationalities Living in Hungary, who received the 2020 Strategy for commentary

<sup>102</sup> Email communication from the Ministry of the Interior (Deputy State Secretariat for Social Catching-up).



	<p>on 25 August 2020 and sent comments on 10 September 2020, but did not receive the Action Plan.<sup>103</sup></p>
<p>Does the national strategic framework and the action plan foresee regular monitoring and review? If yes, who will conduct this?</p>	<p><u>Yes/No/Other</u> (please specify)  Chapter IX of the Action Plan foresees five areas for monitoring by the Minister for Social Inclusion, and for one area for monitoring of children supported by ‘children’s chance improvement services’) jointly with the Minister for Education – both portfolios under the Ministry of Interior.<sup>104</sup> Government Decision no. 1619/2021 mandates the “concerned ministers” (1) to file annual reports to the Minister of the Interior (from March 2023), (2) to take into account the goals and tasks in the Strategy in devising policies and in planning and implementation; and calling on the Minister of the Interior to submit biannual reports on the implementation of the Strategy to the government (from May 2023) and to ensure that the tasks related to cooperation with the European Union Network of National Roma Contact Points are carried out.<sup>105</sup>  The 2030 Strategy identifies a number of challenges in monitoring, including: lack of: adequate data, indicators, research findings and evaluation; data on the number of target groups; feedback on the impact of programmes; indicators on programmes specifically reaching Roma (instead of “underprivileged groups”); basic summary data on social catching-up projects; public communication of programmes after they close; adequate use of available administrative data; analysis of geographical sampling, particularly Roma/non-Roma differences.<sup>106</sup></p>

<sup>103</sup> Email communication from the Commissioner for Fundamental Rights (Deputy Commissioner for the Rights of Nationalities Living in Hungary).

<sup>104</sup> Hungary, Government Regulation on the duties and powers of the members of the Government 182/2022. (V. 24.) ([182/2022. \(V. 24.\) Korm. rendelet a Kormány tagjainak feladat- és hatásköréről](#)), Chapter II, Article 7 (Functions and powers of the Minister of the Interior), point 27 (protection of children and youth) and point 29 (public education).

<sup>105</sup> Hungary, Government Decision 1619/2021 (IX. 3.) on the Government’s Action Plan for the implementation of the Hungarian National Social Inclusion Strategy 2030 for 2021-2024 ([1619/2021. \(IX. 3.\) Korm. határozat a Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030 végrehajtásának a 2021-2024. évekre szóló kormányzati intézkedési tervéről](#)).

<sup>106</sup> Hungary, Hungarian National Social Inclusion (“Catching-Up”) Strategy 2030 ([Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030](#)), p. 177.

<b>Implications of the war in Ukraine on the situation of Roma</b>	
Have Roma from Ukraine entered your country?	<u>Yes/No</u> <sup>107</sup>
If Roma from Ukraine entered your country how was this communicated in the media?	<u>Yes/No</u>  Three main trends can be identified in the media coverage on Roma fleeing Ukraine. The dominant narrative in independent sources was empathy, sometimes in combination with criticism of inadequate services in Hungary. <sup>108</sup> Accounts voiced concerns about the arrival of Roma, citing financial, security and health concerns (e.g. a government-supporting weekly led with: "A growing number of host countries are concerned that the behaviour of refugees from Ukraine, mainly of Roma origin, could pose serious financial, public security and public health risks." <sup>109</sup> Finally, many sources from all sides

<sup>107</sup> For example, the United Nations Children's Fund (UNICEF) reported in March 2022 that "[r]efugees in temporary accommodation centres largely consist of Roma and other disadvantaged individuals who do not have financial means or connections to travel on. These facilities are provided with basic shelter, food and hygiene items but lack of access to child protection services", see UNICEF (2022), ['Ukraine Situation: Refugee Response in Neighbouring Countries, Humanitarian Situation Report No. 3'](#), 17–23 March 2022, p. 6.; the European Roma Rights Centre reported that a Roma mother and her two children were repeatedly denied entry at the Hungarian border, see Lee, J. (2022), ['Romani family denied exit from Ukraine: border guards accuse Roma of "wrongdoings" in Hungary'](#), *European Roma Rights Centre*.

<sup>108</sup> Notably, the New York Times claimed that Roma refugees received less to eat and drink than non-Roma refugees (Lima, M. (2022), ['What Happened on Day 11 of Russia's Invasion of Ukraine'](#), *New York Times*, 6 March 2022). Domestic sources: Balavány, Gy., Molnár, Z. (2022), ['Roma from Transcarpathia have been stranded at the Záhony station for days, with no idea where to go'](#) (*Kárpátaljai romák vesztegelnek napok óta a záhonyi állomáson, fogalmuk sincs, hová menjenek*), *24.hu*, 27 February 2022; Euronews (2022), 'Ukrainian Roma refugees were taken in by the pastor of Uszka, a village in Szabolcs county' (['Ukrainai roma menekülteket fogadott be egy szabolcsi község, Uszka lelkésze'](#)), 4 March 2022; Tatár, T. (2022), 'More and more Roma are arriving, and they and the small villages that serve them need help – On the spot reporting' (['Egyre több roma érkezik, nekik és az őket ellátó kistelepüléseknek is segítség kell – Helyszíni riport'](#)), *Infórádió*, 7 March 2022; Bogdán, E. (2022), 'On the frontline of the refugee crisis in Ukraine' (['Az ukrainai menekültválság frontvonalában'](#)), *Mérce*, 31 March 2022; Hobot, P. (2022), 'I am safe, but I need to help my friends and family' (['Én biztonságban vagyok, de a barátaimon és a családtagjaimon segítenem kell'](#)), *G7*, 17 April 2022; Kerényi, Gy. (2022), 'On the road: where are the Roma refugees from Ukraine heading?' (['Úton: hová vonatoznak az ukrainai roma menekültek?'](#)), *Free Europe (Szabad Európa)*, 18 May 2022; Szurovecz, I. (2022), 'Roma refugees in Transcarpathia don't know where to go from the container shelter' (['A kárpátaljai roma menekültek nem tudják, merre tovább a konténerszállóról'](#)), *444*, 15 July 2022; Radó, N. (2022), 'Some of them don't even recognise their own name when they write it down, but they are already programming robots' (['Van köztük, aki a saját nevét sem ismeri fel leírva, de már robotot programoznak'](#)), *Qubit*, 22 July 2022; Hetényi, Zs. (2022), 'The derailed train – the experience of the first wave of Ukrainian refugees' (['A kisiklatott vonat – az első ukrán menekülthullám tapasztalatai'](#)), *Válasz Online*, 11 July 2022; Rédi, B. (2022), 'Hungary is unable to properly care for even a few tens of thousands of Ukrainian refugees, with civilians doing the state's relief work' (['Magyarország néhány tízezer ukrainai menekültet sem képes rendesen ellátni, civilek végzik az állam segélymunkáját'](#)), *Átlátszó*, 25 August 2022; Fülöp, Zs. (2022), 'Those for whom they do not rush' (['Akiért nem kapkodnak'](#)), *Magyar Narancs*, 14 September 2022; Kolozsi, Á. (2022), 'The gypsy refugees in Transcarpathia can be happy even about a segregated homeless shelter, but the Hungarian healthcare system is too much for them' (['A kárpátaljai cigány menekültek még a szegregált hajléktalanszállónak is tudnak örülni, de a magyar egészségügy már nekik is sok'](#)), *G7*, 4 November 2022.

<sup>109</sup> Franka, T. (2022), 'Refugees on the wrong way, literally "on the gypsy road"' (['Menekültek cigányúton'](#)), *Demokrata*, 4 May 2022.

	reported on the fate of Roma caught between Czechia and Hungary, particularly the uncertainty of their Hungarian citizenship. <sup>110</sup>
Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference	Yes/ <u>No</u> There has been no specific discussion or analysis of the economic impact of the war on Roma living in Hungary.

## 3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion

There were no significant **legal developments** in equality and inclusion of the Roma/Travellers in Hungary in 2022.

In **policy developments**, on 19 January 2022, the then-Deputy State Secretary for Social Inclusion (Catching-up), Katalin Victor Langerné, announced a programme to fund Safe Start children's houses, modelled on the English Safe Start programme and initiated in Hungary in 2003. The goal of the programme is to support disadvantaged children, especially those living in disadvantaged regions. The full funding for the tender is HUF 407,300,000 (€ 1,000,831).<sup>111</sup>

In April 2022, the Deputy Commissioner for the Protection of Nationalities Living in Hungary issued a conceptual Resolution on Misdemeanour Procedures for School Absences. The investigation focused on a settlement in Borsod-Abaúj-Zemplén county,

<sup>110</sup> Magyar Hang (2022), 'Ukrainian citizens with Hungarian passports cannot expect help in the Czech Republic' ([Magyar útlevéllal ukrán állampolgárok nem számíthatnak segítségére Csehországban](#)), 14 April 2022; Magyar Hírlap (2022), 'Ukrainian Roma have become "Hungarians"' (["Magyarok" lettek az ukrán romák](#)), 2 May 2022; Magyar Nemzet (2022), 'Czech Republic clamps down on mass influx of Roma refugees' ([Csehország szigorít a tömegesen érkező roma menekültek miatt](#)), 12 May 2022; Papp, Zs. G. (2022), 'Report from Prague's main railway station: Hungarian and Czech authorities playing ping-pong with hundreds of Hungarian Roma from Transcarpathia' ([Riport a prágai főpályaudvarról: több száz kárpátaljai magyar romával játszanak pingpongot a magyar és a cseh hatóságok](#)), *Azonnali*, 13 May 2022; HVG (2022), 'The Czechs would send the Ukrainian-Hungarian dual-citizen Roma refugees from Transcarpathia to Hungary' ([A csehek Magyarországra küldnék a hozzájuk menekült ukrán-magyar kettős állampolgárságú kárpátaljai romákat](#)), 13 May 2022; Tóth, G. (2022), 'Czech police have known for weeks that most Roma refugees from Ukraine do not have Hungarian passports' ([A cseh rendőrség hetek óta tudja, hogy az ukrainai roma menekültek többségének nincs magyar útlevele](#)), *Telex*, 13 June 2022.

<sup>111</sup> Romagov (2022), 'Over HUF 400 million tender for Sure Start Children's Homes' ([Több mint 400 millió forintos pályázat a Biztos Kezdet Gyerekházaknak](#)), 19 January 2022.

where the high absence rate for certain children is often a cause of early dropout. The Resolution called on the competent authorities to collect adequate data to feed into an effective early signalling mechanism and to implement positive instead of negative measures (e.g. denying welfare payments, which disproportionately affect children from disadvantaged backgrounds). Those measures disproportionately target Roma children and the Resolution notes that this can amount to indirect discrimination.<sup>112</sup>

As part of the run-up to the elections in April 2022, the Constitutional Court found the nomination of a Roma representative to be in violation of the Fundamental Law and annulled the decision of the National Roma Self-government.<sup>113</sup> Nationality representatives nominated by nationality self-governments can be elected to the parliament on a preferential rule, and if they fail to reach this lower threshold, they become “nationality speakers”, with limited rights (i.e. they can speak but not vote). The decision of the Constitutional Court followed the defeat of a government-supported nominee and the Budapest-Capital Tribunal decision that there was no violation of law.<sup>114</sup> The original nominee was later charged with corruption (offering to resign in exchange for money) and was held in custody for over two months in autumn 2022.<sup>115</sup>

In May 2022, the ECtHR found a violation of Article 8 of the ECHR in respect of a visit by local officials, including the mayor, in a village that became known for a series of Roma murders in 2008-2009. The officials entered the applicant’s home in 2011, in what was later found to be an unlawful inspection by the Heves County Government Office (*Heves Megyei Kormányhivatal*). According to a report by the Parliamentary Commissioner for the Rights of National and Ethnic Minorities, other Roma families were also subjected to similar inspections that same month.<sup>116</sup> The Court concluded that the interference with private and family life was unlawful and constituted a violation of Article 8 of the ECHR, without having to examine the legitimate aim, or the necessity or proportionality of the intrusion. The applicant, of Roma origin, also alleged racial discrimination (Article 14 ECHR), arguing that the motive behind the inspection was to harass him because of his Roma origin and that the investigating

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<sup>112</sup> Deputy Commissioner for the Protection of Nationalities Living in Hungary (*A magyarországon élő nemzetiségek jogainak védelmét ellátó biztoshelyettes*) (2022), Conceptual Resolution no. 2/2022 assessing the misdemeanour procedures initiated for school absences and related sanctions ([2/2022. számú elvi állásfoglalás az iskolai hiányzások miatt indítható szabálysértési eljárások és más szankciók vizsgálatáról](#)), 25 April 2022.

<sup>113</sup> Hungary, Constitutional Court, [Decision No. 3002/2022 of 13 January 2022 \(3002/2022. \(I. 13.\) AB határozat\)](#).

<sup>114</sup> Bakró-Nagy, F. (2022), ‘The Constitutional Court annuls the decision on the defeat of Farkas Félix’ ([Az Alkotmánybíróság megsemmisítette a Farkas Félix vereségéről szóló döntést](#)), *Telex*, 15 December 2021.

<sup>115</sup> RomNet (2022), ‘János Agócs At Large’ ([Agócs János szabadlábon!](#)), 11 November 2022.

<sup>116</sup> ECtHR, [L.F. v. Hungary](#), No. 621/14, 19 May 2022, para 8.

authorities had not taken all reasonable steps to uncover any possible racist motive behind the incident.<sup>117</sup> The incident took place within a local context where the mayor had been elected as a candidate for the extreme right-wing party Jobbik, and ran on a ticket of establishing order, with racialised overtones. The Court dismissed the Article 14 claim, without examination on the merits, due to non-exhaustion of domestic remedies.<sup>118</sup>

In July 2022, the ECtHR found that the ill-treatment of a Roma man by Hungarian police (chest contusions, wrist wounds) amounted to a breach of Article 3 of the ECHR (torture or inhuman or degrading treatment) and ordered the payment of € 19,500 in non-pecuniary damages.<sup>119</sup> Human rights NGOs noted that the case fit within a documented trend of racist police brutality in Europe.<sup>120</sup>

The person convicted for the “Roma murders” in 2008–2009, who is serving a life sentence, admitted in a media interview in August 2022 that his accomplices are still at large.<sup>121</sup> An individual subsequently filed a complaint with the police and the public prosecutor's office.<sup>122</sup>

A Roma woman, holder of the Gold Pantheon Award (awarded to everyday Roma heroes), was denied entry to all pubs along a promenade at Lake Balaton in August 2022, with one security guard expressly telling her that they could not enter because they are gypsies. She went public with this case of blatant discrimination and described her experience of feeling humiliated.<sup>123</sup>

In a report issued on 14 December 2022, the Commissioner for Fundamental Rights and his Deputy Commissioner for the Rights of Nationalities Living in Hungary assessed the practice of delayed conclusion of public education contracts between the ministry responsible for education and national self-governments of minorities (including the Roma) running educational

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<sup>117</sup> ECtHR, [L.F. v. Hungary](#), No. 621/14, 19 May 2022, para 95.

<sup>118</sup> ECtHR, [L.F. v. Hungary](#), No. 621/14, 19 May 2022.

<sup>119</sup> ECtHR, [Mata v. Hungary](#), No. 7329/16, 7 July 2022.

<sup>120</sup> Rorke, B. (2022), ‘Hungary: European Court awards Romani applicant € 19,500 in police brutality case’, *European Roma Rights Centre*, 27 July 2022; see also the underlying study and its chapter on Hungary: European Roma Rights Centre (2022), [Brutal & Bigoted: Policing Roma in the EU](#), May 2022, pp. 27–36.

<sup>121</sup> Pámer, D. and Villányi, K. (2022), ‘It took more than a decade for the death squad leader to confess to the Roma murders’ ([Több mint egy évtized kellett ahhoz, hogy a halálbrigád vezetője beismerje a roma gyilkosságok elkövetését](#)), *Magyar Nemzet*, 31 August 2022.

<sup>122</sup> Szemán, L. J. (2022), ‘Investigations may be launched against the accomplices at large of the Roma murders’ ([Nyomozhatnak a roma gyilkosságok szabadon lévő bűnsejédei után](#)), *Magyar Nemzet*, 6 September 2022.

<sup>123</sup> Bod, T. (2022), ‘“You can’t enter because you are gypsies” – Sztojka Edina, winner of the Gold Strap Award, was harassed in Siófok’ ([“Nem jöhettek be, mert cigányok vagytok” – meghurcolták az Aranypánt-díjjal kitüntetett Sztojka Edinát Siófokon](#)), *Magyar Narancs*, 18 August 2022.

institutions (kindergartens and primary schools). These contracts, among others, secure funding for the five-year contract period. The fact that there was a period (around three months) where there were no valid contracts due to delays caused by the ministry raised, in the assessment of the report, the possibility of uncertainty and the danger of violating the rights of national minorities. The report also criticised the practice of the rigid five-year system where no new contracts are concluded with additional national minority self-governments and where annual funding remains on the same level. The commissioner and deputy commissioner recommended a move to a more flexible system that nevertheless guarantees legal certainty, transparency, and the rights of national minorities.<sup>124</sup>

Another joint report by the Commissioner for Fundamental Rights and his Deputy Commissioner for the Rights of Nationalities Living in Hungary, issued on 19 December 2022, assessed the case of a Roma complainant who was arrested and brought to a Budapest district police station. The report found that the complainant's liberty was unlawfully restricted as the decision on arrest was not ordered in writing and the complainant's right to legal defence was not guaranteed. The complainant was arrested based on a comparison of his ID photos and a low-resolution video that shows a person covered by a mask and a cap, raising questions about the legal reasons for arrest. The report further criticises delays in the legal proceedings by the authorities which unduly delayed the period when the complainant was under criminal investigation. The report notes that the ombuds proceedings, given their limitations, could not establish the validity of the part of the complaint that alleged discriminatory and derogatory treatment due to the Roma ethnicity of the complainant.<sup>125</sup>

Researchers at the Centre for Social Sciences undertook a qualitative survey on solidarity and attitudes to Ukrainian refugees in Hungary. They surveyed 1,000 people and the results are representative by gender, age, settlement type, region, and educational level. Around 40 % of the population had been involved in acts of solidarity, e.g. 23 % had donated and 7 % did voluntary work. The proportion of helpers was significantly higher among public sector workers from health, education, and

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<sup>124</sup> Commissioner for Fundamental Rights and Deputy Commissioner for the Protection of Nationalities Living in Hungary (*Az alapvető jogok biztosa és a Magyarországon élő nemzetiségek jogainak védelmét ellátó biztoshelyettese*) (2022), Joint report in case No. AJB-1268/2022 on the assessment of the support of national minority public education institutions maintained by national minority self-governments under public education contracts, ([Közös jelentés az AJB-1268/2022. számú ügyben a nemzetiségi önkormányzatok által fenntartott nemzetiségi köznevelési intézmények köznevelési szerződés keretében történő támogatásának vizsgálatáról](#)), 14 December 2022.

<sup>125</sup> Commissioner for Fundamental Rights and Deputy Commissioner for the Protection of Nationalities Living in Hungary (*Az alapvető jogok biztosa és a Magyarországon élő nemzetiségek jogainak védelmét ellátó biztoshelyettese*) (2022), Joint report in case No. AJB-1134/2022 on the legality of the restriction of personal liberty and the safeguarding of the right to defence in the context of criminal proceedings against a person of Roma nationality ([Közös jelentése az AJB-1134/2022. számú ügyben egy roma nemzetiségű személlyel szemben folytatott büntetőeljárás keretében a személyes szabadságkorlátozás törvényességét és a védelemhez való jog biztosítását érintően](#)), 19 December 2022.

social services. Women were 1.5 times more likely to help than men, and no correlation with wealth was found. Attitudes varied depending on the ethnicity of the refugees: respondents were more likely to accept Hungarians living in Ukraine (95 % for longer, or while the war lasts) than refugees in general (89 %); and were less likely to accept Roma (81 %) and African and Asian students (78 %). While the numbers supporting acceptance were still high, people showed less willingness for these groups: 21 % rejected longer accommodation (a few months maximum, or not at all) for Asian and African students, and 19 % for Roma people. People with tertiary education were most engaged in support acts, while those with the lowest levels of education (up to eight years of primary school education) were next-most engaged, and those in-between were least active. Willingness clearly correlated with the level of education: higher levels of education translated into higher acceptance rates, from 78.4 % (tertiary educated) to 56.2 % (up to eight years of education). Supporters of the far-right political parties Jobbik and Mi Hazánk were less likely to come act positively or to hold positive attitudes, while supporters of the united opposition (excluding Jobbik) and the Two-Tail Dog Party showed both the highest levels of involvement and acceptance. Supporters of the government party Fidesz showed comparable rates of personal involvement to the opposition, but were significantly less likely to accept refugees (Fidesz: 64.9 %; opposition: 79.2 % for accepting “anyone at least for the duration of the war”). The researchers concluded that their findings showed the power of civic solidarity, but also its limits and the inequalities in burden sharing, weighing heavily on the helping sectors and unpaid work.<sup>126</sup>

In September 2022, the Minority Rights Group issued a report on an EU-funded project focusing on “Roma Equality through Increased Legal Access” (REILA) and the situation of Roma in Hungary and Serbia.<sup>127</sup> The project aimed to raise rights awareness among Roma, and identified discrimination cases, mainly in the field of education, employment and housing in Hungary. It included training civil society organisations staff and other Roma activists, and involved mediators and legal expertise from the Idetartozunk Association (“We Belong Here”, a human rights organisation and Roma community network<sup>128</sup>). The project relied on fieldwork and provided legal counselling and support for victims. The report’s findings include widespread experience of discrimination by Roma, combined with their lack of reliance on legal remedies due to their lack of faith in the legal system and fear of retaliation. The report also notes that, in the case of Hungary, “the complicated regulation of legal representation, the protracted nature and uncertain outcome of discrimination cases, as well as the limited preventive effect

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<sup>126</sup> Zakariás, I., Feischmidt, M., Gerő, M., Morauszki, A., Neumann, E., Zentai, V. and Zsigmond, Cs. (2022), [‘Solidarity with the displaced people from Ukraine: Instant replies and the effects of the long-term crisis in Hungary’](#), Centre for Social Sciences.

<sup>127</sup> Minority Rights Group (2022), [‘Building trust in equality: Enhancing access to justice for Roma in Hungary and Serbia’](#), September 2022.

<sup>128</sup> See [website](#) of the Idetartozunk Association (*Idetartozunk Egyesület*).

of judgments, amount to further barriers".<sup>129</sup> The report recommends that Hungary (1) reestablish the national network of free legal assistance with the addition of local contact points, (2) restore the national network of equal treatment officers for the Directorate-General for Equal Treatment, (3) launch Roma-focused awareness-raising campaigns on legal remedies for discrimination, and (4) legislate to allow civil society organisations to provide legal representation in judicial procedures.<sup>130</sup>

Romaversitas, a Roma community organisation facilitating university education of Roma youth, cooperates with other NGOs to support refugees arriving from Ukraine, and prepared a report on the situation of the Roma fleeing Ukraine.<sup>131</sup> Over 160 families were interviewed between 15 July and 15 September 2022,<sup>132</sup> covering their current situation, their circumstances before they fled, and their experiences during their arrival. School-age children get to school in only 41 % of the families, with some children from an additional 17 % of families attending school, and no school-age children from another 42 % of families attending school.<sup>133</sup> Access to housing, jobs and other opportunities were all shaped by experiences of discrimination, starting at the border where "Roma were often treated not as refugees but primarily as Roma".<sup>134</sup>

The ECtHR found in a November 2022 judgment that the minority preference system in the Hungarian electoral regime is discriminatory and is in violation of the Convention. While the Court recognised a wide margin of appreciation for states to devise their preferential system for minority representation, including the decision whether they introduce such a regime, it found that the Hungarian system deprived voters registering with less numerous minorities (1) a meaningful chance to get representation (because they do not even have a statistical chance to elect an MP), (2) a real choice (as the only candidate that voters registered as minority voters can cast a ballot for is the single candidate put forward by the minority's national self-government), and (3) secrecy (as the fact of casting a valid vote will reveal the vote in the case of a single candidate, especially

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<sup>129</sup> Minority Rights Group (2022), ['Building trust in equality: Enhancing access to justice for Roma in Hungary and Serbia'](#), September 2022, p. 2.

<sup>130</sup> Minority Rights Group (2022), ['Building trust in equality: Enhancing access to justice for Roma in Hungary and Serbia'](#), September 2022, p. 22.

<sup>131</sup> Balogh, J., Eredics, L., Kadét, E., Oláh, O., Szócsi, D. and Virág, Á. (2022), The situation of Roma families in Transcarpathia who arrived in Hungary after the war ([A háború után Magyarországra érkezett kárpátaljai roma családok helyzete](#)), Romaversitas.

<sup>132</sup> Balogh, J., Eredics, L., Kadét, E., Oláh, O., Szócsi, D. and Virág, Á. (2022), The situation of Roma families in Transcarpathia who arrived in Hungary after the war ([A háború után Magyarországra érkezett kárpátaljai roma családok helyzete](#)), Romaversitas, pp. 11–12.

<sup>133</sup> Balogh, J., Eredics, L., Kadét, E., Oláh, O., Szócsi, D. and Virág, Á. (2022), The situation of Roma families in Transcarpathia who arrived in Hungary after the war ([A háború után Magyarországra érkezett kárpátaljai roma családok helyzete](#)), Romaversitas, p. 38; The lack of policy and planning in this area was noted by the Commissioner for Fundamental Rights: see Commissioner for Fundamental Rights (2022), *Report in the context of ensuring the education and upbringing in Hungary of children of kindergarten and primary school age who are refugees from Ukraine (Jelentés az Ukrajnából menekülő, óvoda- és tanköteles korú gyermekek magyarországi nevelésének, oktatásának biztosításával összefüggésben)*, No. AJB-1827/2022.

<sup>134</sup> Balogh, J., Eredics, L., Kadét, E., Oláh, O., Szócsi, D. and Virág, Á. (2022), The situation of Roma families in Transcarpathia who arrived in Hungary after the war ([A háború után Magyarországra érkezett kárpátaljai roma családok helyzete](#)), Romaversitas, p. 43.



in the case of low number of minority voters at particular polling stations).<sup>135</sup> While the applicants were of Greek and Armenian origin, the implementation of the judgment will surely have an impact on preferential representation rules applicable to the Roma as well.

In a study published in November 2022, the authors studied users of a carpooling site and found evidence of ethnic discrimination against Roma. The study used randomised experiments following a 'between subject design': a randomised sample of drivers on the platform were approached by a fictitious Roma or non-Roma passenger between 12 October and 6 November 2021 and the goal was to identify whether the driver would be willing to accept the passenger. The study included an intervention in the form of a 50-second video showing a Roma passenger seeking a ride and a message on the importance of acceptance. The video was shown to a (non-representative) sample of volunteers who then filled a survey questionnaire. The difference in the two sets of results show that the likelihood of selecting a Roma passenger decreased from 20% to 11.8% after watching the video. The authors argue, in conclusion, that the main challenge of fighting discrimination on online platforms is to get service providers to make awareness-raising programs to their users, which should be a focus of state policies.<sup>136</sup>

The same authors with two additional co-authors published an English-language study. The underlying research found discrimination among local government public servants in providing information to Roma and non-Roma clients. 1260 municipalities received both a Roma and a non-Roma request, with the order of gender and ethnicity independently randomised, from 9 different accounts with one of four different requests (i.e., requesting information related to a biking trip plan, nurseries, local cemeteries, and wedding venues in the area). With a response rate of 52.8%, the valid sample size was 1330. Roma clients had a 47.2% response rate in contrast to 58.3% among non-Roma. In a second phase, machine learning techniques were applied to 200 randomly selected responses. This showed that messages sent to Roma clients were 'shorter', 'their tone is less polite and more reserved', resulting in 'attention discrimination'.<sup>137</sup>

An academic paper published in November 2022 studied the role of small businesses on employment discrimination of the Roma. The research used data from the 2011 census (completed occasionally by additional data from the Hungarian Central

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<sup>135</sup> ECtHR, *Bakirdzi and E.C. v. Hungary*, nos. 49636/14 and 65678/14, 10 November 2022.

<sup>136</sup> Simonovits, G. and Simonovits, B. (2022), Can discrimination be reduced in sharing economy? Results of a pilot study on a Hungarian carpooling site (*Csökkenhető-e a diszkrimináció a megosztáson alapuló gazdaságban? Egy magyarországi telekocsijaldalon végzett kísérleti kutatás eredményei*), *Economics Review (Közgazdasági Szemle)*, Vol. 69 No. 11, pp. 1457–1474.

<sup>137</sup> Buda, J., Németh, R., Simonovits, B. and Simonovits, G. (2022), *The language of discrimination: assessing attention discrimination by Hungarian local governments*, *Language Resources and Evaluation*, 1–24.

Statistical Office) and election results for Jobbik party (whose agenda at the time was dominated by racist ‘Gypsy criminality’ message). The sample was limited to those with a low level of education (0–8 classes, i.e. primary education, and those with vocational training [*szakiskola*]) to assure comparability given the low ratio of Roma with completed secondary education (*érettségi*) or university diploma (6.5% for both combined). The study, based on data from earlier studies, shows correlation between political support for Jobbik and prejudices on the local level. Higher levels of support for Jobbik and larger segments dominated by small businesses in the local economy could explain an employment gap 20–40% higher than average between Roma and non-Roma, the authors found. The study argues that small business decisions lead to discrimination because of reflecting the potential negative attitudes by colleagues and clients. (The authors note that Roma women tend to work in positions where these factors are less likely to play a role and hence they are less impacted by this trend.) The paper concludes that antidiscrimination legislation in itself is insufficient to address these inequalities and targeted employment policy measures and steps addressing stigmatisation are necessary.<sup>138</sup>

A group of Hungarian NGOs in a report published by the European Commission evaluated the Hungarian National Social Inclusion Strategy 2020–2030 and criticised the document for refusing to exclusively target the Roma instead of relying on “mainstream policies that generally target people in poverty”, and for failing to identify quantifiable goals and targets. It specifically pointed out deficiencies in civil consultations in the drafting and adoption phase, criticising the “very little reflection on truly independent civil society opinions”. The authors also point out the uneven quality of the analysis in terms of depth and conclude that the strategy cannot be expected to be effective. Finally, the Strategy fails to consider the Hungarian political environment, the democratic decline that also impact the Roma living in Hungary.<sup>139</sup>

Independent media *Jelen* reported in a 15 January 2023 article that a civil activist managed to get attention to how EU funds were used to render 80 people, including children, homeless. The European Commission decided to defund the project. The municipality of Hajdúhadház won HUF 500 million (€ 1.28 million) on a tender for the rehabilitation of degraded urban areas with a plan targeting an area with mostly Roma residents. The plan was to oust the 12 families, including at least 50 children.

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<sup>138</sup> Kertesi, G., Köllő, J., Károlyi, R. and Szabó, L. T. (2022), How does ethnic prejudice turn into employment discrimination? The role of small businesses ([Hogyan lesz az etnikai előítéletből foglalkoztatási diszkrimináció? A kisvállalatok szerepe](#)), *Economics Review (Közgazdasági Szemle)*, Vol. 69 No. 11, pp. 1345–1376.

<sup>139</sup> RGDS Nonprofit Kft., Romaversitas Alapítvány (*Romaversitas Foundation*), UCCU Roma Informális Oktatási Alapítvány (*UCCU Roma Informal Education Foundation*), 1Magyarország Mozgalom (*1Hungary Movement*), Autonomia Alapítvány (*Autonomy Foundation*), Civil Tanács Egyesület (*Civil Council Association*), Amari Kris Cigány Szervezet (*Amari Kris Gypsy Organisation*), Szubjektív Ertekek Alapítvány (*Subjective Values Foundation*), Diverz Ifjúsági Hálózat (*Diverse Youth Network*) (2022), [Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion, and participation in Hungary](#), European Commission, Justice and Consumers, June 2022.

Instead of letting the families back after the rehabilitation of the area, they were meant to receive monetary compensation. The low level of compensation paid meant that many of them would have effectively been pushed to homelessness. László Glonczy civil activist and president of the NGO National Association of Families in Disadvantaged Situation (*Hátrányos Helyzetű Családok Országos Egyesülete*) petitioned the European Commission on 25 May 2021 arguing that this is against the statutory obligations of the municipality to prevent homelessness and keep families together. (There is a clear risk of losing custody of children in case of inadequate housing.) The activist commented that the fact that local Roma representatives agreed to the project showed the inadequacy of minority representation. The European Commission initiated consultation with the Deputy State Secretary for Social Catching-up of the Ministry of Interior and the municipality of Hajdúhadház. In the days preceding the publication of the article, the petitioner received the response of the Commission informing him that the revised plan includes adequate temporary residency for tenants and the possibility to move back after the renovation of the buildings. The petitioner commented that prompt action in similar cases is essential, as a complaint in a similar case in Nyíregyháza yielded no results since the project ended and the funds were already transferred.<sup>140</sup>

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<sup>140</sup> Ónody-Molnár, D. (2023), The municipality of Hajdúhadház was caught. EU funds used to seek to evict Roma families ([Lebukott Hajdúhadház önkormányzata. Uniós pénzből akarták kiebrudalni a roma családokat](#)), *Jelen*, 15 January 2023.

## 4. Asylum, borders, visas, migration and integration

In February 2022, the European Court of Human Rights (ECtHR) ruled in the case of [M.B.K and Others v. Hungary](#) that keeping an Afghan family for more than 200 days in the transit zones was unlawful detention under inhuman conditions<sup>141</sup>.

### 4.1 National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

Hungary	Implementation of Article 3 of <a href="#">Directive 2002/90/EC</a>	
	<p><b>How has your Member State implemented Article 3 of Directive 2002/90/EU</b></p> <p><b>Article 3 of Directive 2002/90/EU is implemented by Act C of 2012 on the Criminal Code (2012. Évi C. törvény a Büntető Törvénykönyvről)</b><sup>142</sup></p>	<p><b>Hyperlinked legal provision in EN and national language</b></p> <p>EN translation:  <a href="https://njt.hu/translation/J2012T0100P_20220401_FIN.pdf">https://njt.hu/translation/J2012T0100P_20220401_FIN.pdf</a></p> <p><b>Trafficking in human beings</b></p> <p>Section 353 (1) A person who assists another person to cross the state border in violation of the law is guilty of a felony and shall be punished by imprisonment for one to five years.            (2) The punishment shall be imprisonment for two to eight years if trafficking in human beings is</p>

<sup>141</sup> ECtHR, [M.B.K and Others v. Hungary, Application no. 73860/17, 24 February 2022.](#)

<sup>142</sup> Hungary, [Act C of 2012 on the Criminal Code \(2012. évi C. törvény a Büntető Törvénykönyvről\).](#)

	<p>Act VI of 2018 on the modification of certain acts in relation to measures taken against illegal migration (2018. Évi VI. Törvény egyes törvényeknek a jogellenes bevándorlás elleni intézkedésekkel kapcsolatos módosításáról) (Act VI of 2018)<sup>143</sup>, the so-called "Stop Soros law" inserted Article 353/A into Act C of 2012 on the Criminal Code, threatening those who assist or provide legal aid to asylum-seekers, commission information leaflets for them, or conduct human rights border monitoring, with a sanction of one-year imprisonment (Article 11 (1) of Act VI of 2018). The law also allowed for the imposition of criminal sanctions on entire organisations. The</p>	<p>committed</p> <ul style="list-style-type: none"> <li>a) for financial gain,</li> <li>b) by assisting more than one person in crossing the state border, or</li> <li>c) by destroying or damaging a facility or instrument safeguarding the order of the state border.</li> </ul> <p>(3) The punishment shall be imprisonment for 5-10 years if trafficking in human beings is committed</p> <ul style="list-style-type: none"> <li>a) by tormenting the smuggled person,</li> <li>b) with a weapon,</li> <li>c) with an instrument capable of causing death,</li> <li>d) regularly for generating income, or</li> <li>e) in a criminal conspiracy.</li> </ul> <p>(4) The punishment shall be imprisonment for 5-15 years if</p> <ul style="list-style-type: none"> <li>a) the trafficking in human beings as defined in paragraph (3) a) is committed in a manner specified in points b) to e),</li> <li>b) the trafficking in human beings as defined in paragraph (3) b) is committed in a manner specified in points a) or c) to e).</li> </ul> <p>(5) A person organising or leading the commission of a criminal offence specified in paragraph (3) or (4) shall be punished by imprisonment for 10-20 years.</p> <p>(6) A person who commits preparation for trafficking in human beings shall be punished by imprisonment for up to three years.</p>
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<sup>143</sup> Hungary, [Act VI of 2018 on the modification of certain acts in relation to measures taken against illegal migration](#) (2018. évi VI. törvény egyes törvényeknek a jogellenes bevándorlás elleni intézkedésekkel kapcsolatos módosításáról).

	<p>relevant provisions were harshly criticised by the Hungarian Helsinki Committee, the only NGO in Hungary providing free legal aid to asylum seekers.<sup>144</sup> An infringement procedure was launched by the European Commission, and the related CJEU judgment in Case C-821/19<sup>145</sup> quashed the provisions concerned. However, the relevant provisions are still in force</p>	<p><b>Facilitating and assisting illegal immigration</b></p> <p>Section 353/A (1) A person who engages in any organising activity aimed at</p> <p>a) enabling a person to initiate an asylum procedure in Hungary even though they are not exposed to persecution in their home country, the country of their habitual residence or the country they transited through because of their race, nationality, membership in a particular social group, religion or political beliefs, or their fear of direct persecution is groundless, or</p> <p>Act C of 2012 on the Criminal Code (as in force on 1 April 2022)</p> <p>b) having a person obtain any title to residence even though they entered or reside in Hungary illegally, is guilty of a misdemeanour and shall be punished by confinement, unless a criminal offence of greater gravity is established</p> <p>(2) A person who provides material means for the commission of the criminal offence specified in paragraph (1) or regularly engages in such organising activity shall be punished by imprisonment for up to one year</p> <p>(3) A person shall be punished under paragraph (2) if they commit the criminal offence</p>
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<sup>144</sup> Hungarian Helsinki Committee (2021), [‘EU Court: criminalising helping asylum-seekers breaches EU law’](#), 16 November 2021.

<sup>145</sup> CJEU (2021), [‘By criminalising organising activities in relation to the initiation of a procedure for international protection by persons not fulfilling the national criteria for granting that protection, Hungary infringed EU law’](#), Press Release, *Case C-821/19 Commission v Hungary (criminalisation of assistance to asylum seekers)*, No 203/21 Luxembourg, 16 November 2021.

		<p>specified in paragraph (1)</p> <ul style="list-style-type: none"> <li>a) for financial gain,</li> <li>b) by assisting more than one person, or</li> <li>c) within 8 km from the external border of Hungary or a border sign, as defined in</li> </ul> <p>Article 2(2) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)</p> <p>(4) The punishment of the perpetrator of the criminal offence specified in paragraph (1) may be reduced without limitation or, in cases deserving special consideration, may be dispensed with if they reveal the circumstances of its commission before their indictment</p> <p>(5) For the purposes of this section, organising activity means, in particular,</p> <ul style="list-style-type: none"> <li>a) the organisation of border monitoring at the external border of Hungary or a border sign, as defined in Article 2(2) of the Schengen Borders Code, for a purpose specified in paragraph (1),</li> <li>b) the making or dissemination of information materials, or engaging others to do so, for a purpose specified in paragraph (1),</li> <li>c) the establishment or operation of a network for a purpose specified in paragraph (1)</li> </ul>
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		<p><b>Facilitating illegal residence</b></p> <p>Section 354 (1) A person who, for financial gain, assists a person in residing illegally in the territory of</p> <ul style="list-style-type: none"> <li>a) a Member State of the European Union,</li> <li>b) another state which is a party to the Agreement on the European Economic Area, or</li> <li>c) a state of nationality of a person having the same status as a national of a state which is a party to the Agreement on the European Economic Area</li> </ul> <p>even though that person is not a national of any of the above states is guilty of a misdemeanour and shall be punished by imprisonment for up to two years, unless a criminal offence of greater gravity is established</p> <p>(2) A person who, for financial gain, assists a foreign person to reside in Hungary illegally shall be punished under paragraph (1), unless a criminal offence of greater gravity is established</p> <p><b>National language</b></p> <p style="text-align: center;"><b><i>Embercsempészés</i></b></p> <p><b>353. §</b> (1) <i>Aki államhatárnak más által a jogszabályi rendelkezések megszegésével történő átlépéséhez segítséget nyújt, bűntett miatt egy évtől öt évig terjedő szabadságvesztéssel büntetendő.</i></p>
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		<p>(2) A büntetés két évtől nyolc évig terjedő szabadságvesztés, ha az embercsempészt</p> <p>a) vagyoni haszonszerzés végett,</p> <p>b) államhatár átlépéséhez több személynek segítséget nyújtva, vagy</p> <p>c) az államhatár rendjének védelmét biztosító létesítmény, illetve eszköz megsemmisítésével vagy megrongálásával</p> <p>követik el.</p> <p>(3) A büntetés öt évtől tíz évig terjedő szabadságvesztés, ha az embercsempészt</p> <p>a) a csempészett személy sanyargatásával,</p> <p>b) fegyveresen,</p> <p>c) felfegyverkezve,</p> <p>d) üzletszerűen vagy</p> <p>e) bűnszövetségben</p> <p>követik el.</p> <p>(4) A büntetés öt évtől tizenöt évig terjedő szabadságvesztés, ha</p> <p>a) a (3) bekezdés a) pontja szerinti embercsempészt a b)–e) pontban meghatározott módon</p> <p>b) a (3) bekezdés b) pontja szerinti embercsempészt az a), illetve a c)–e) pontban meghatározott módon</p> <p>követik el.</p>
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		<p>(5) A (3) vagy (4) bekezdésben meghatározott bűncselekmény szervezője vagy irányítója tíz évtől húsz évig terjedő szabadságvesztéssel büntetendő.</p> <p>(6) Aki embercsempészésre irányuló előkészületet követ el, három évig terjedő szabadságvesztéssel büntetendő.</p> <p style="text-align: center;"><b>Jogellenes bevándorlás elősegítése, támogatása</b></p> <p><b>353/A. §</b> (1) Aki szervező tevékenységet folytat annak érdekében, hogy</p> <p>a) Magyarországon menedékjogi eljárás kezdeményezését tegye lehetővé olyan személy részére, aki hazájában vagy a szokásos tartózkodási helye szerinti országban vagy olyan más országban, amelyen keresztül érkezett, nincs faji, nemzeti hovatartozása, meghatározott társadalmi csoporthoz tartozása, vallási, illetve politikai meggyőződése miatt üldözésnek kitéve, vagy a közvetlen üldöztetéstől való félelme nem megalapozott, vagy</p> <p>b) a Magyarországra jogellenesen belépő vagy jogszerűtlenül tartózkodó személy tartózkodási jogcímet szerezzen,</p> <p>ha súlyosabb bűncselekmény nem valósul meg, vétség miatt elzárással büntetendő.</p> <p>(2) Egy évig terjedő szabadságvesztéssel büntetendő, aki az (1) bekezdésben meghatározott bűncselekmény elkövetéséhez anyagi eszközöket szolgáltat vagy a szervező tevékenységet rendszeresen folytatja.</p> <p>(3) A (2) bekezdés szerint büntetendő, aki az (1) bekezdésben meghatározott bűncselekményt</p> <p>a) vagyoni haszonszerzés végett,</p>
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		<p><i>b) több személynek segítséget nyújtva, vagy</i></p> <p><i>c) a személyek határátlépésére irányadó szabályok uniós kódexéről szóló, 2016. március 9-i (EU) 2016/399 európai parlamenti és tanácsi rendelet (a továbbiakban: Schengeni határ-ellenőrzési kódex) 2. cikk 2. pontjának megfelelő Magyarország külső határának határvonalától, illetve a határjeltől számított 8 km-es sávon belül</i></p> <p><i>követi el.</i></p> <p><i>(4) A büntetés korlátlanul enyhíthető – különös méltánylást érdemlő esetben mellőzhető – az (1) bekezdésben meghatározott bűncselekmény elkövetőjével szemben, ha az elkövető a vádemelésig az elkövetés körülményeit feltárja.</i></p> <p><i>(5) E § alkalmazásában szervező tevékenységnek minősül különösen, ha az (1) bekezdésben meghatározott célből</i></p> <p><i>a) Magyarország területének Schengeni határ-ellenőrzési kódex 2. cikk 2. pontjának megfelelő külső határ szerinti határvonalán, illetve határjelénél határmegfigyelést szervez,</i></p> <p><i>b) információs anyagot készít, terjeszt vagy ilyenre megbízást ad,</i></p> <p><i>c) hálózatot épít vagy működtet.</i></p> <p style="text-align: center;"><b>Jogellenes tartózkodás elősegítése</b></p> <p><b>354. §</b></p> <p><i>(1) Aki</i></p> <p><i>a) az Európai Unió tagállamának,</i></p>
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		<p><i>b) az Európai Gazdasági Térségről szóló megállapodásban részes más állam vagy</i></p> <p><i>c) az Európai Gazdasági Térségről szóló megállapodásban részes más állam állampolgárával azonos jogállású állampolgár államának területén történő jogellenes tartózkodáshoz vagyoni haszonszerzés végett segítséget nyújt olyan személy részére, aki ezen államok egyikének sem állampolgára, ha súlyosabb bűncselekmény nem valósul meg, vétség miatt két évig terjedő szabadságvesztéssel büntetendő.</i></p> <p><i>(2) Ha súlyosabb bűncselekmény nem valósul meg, az (1) bekezdés szerint büntetendő, aki vagyoni haszonszerzés végett külföldi személy magyarországi jogellenes tartózkodásához nyújt segítséget.</i></p>
	<p><b>Cases [incident numbers] of criminalisation of humanitarian assistance</b></p> <p>Forms of humanitarian assistance remain criminalised to date by Article 353/A of Act C of 2012, however, the research shows at present that no related cases were actually initiated. [In this context, the 16 November 2021 ruling of the Grand Chamber of the CJEU judgment is recalled: “<i>Lastly, it should be noted, in any event, that, even if, as Hungary asserts, that provision [Article 353/A of the Criminal Code] has not yet served as the basis for a criminal conviction, that fact is not a decisive factor in assessing whether it entails a deterrent effect restricting the rights guaranteed by the provisions of EU law referred to in paragraph 93 above. In addition to the fact that it is not inconceivable that that may be the case in the future, it is in the very nature of the deterrent effect of criminal offences to discourage anyone from undertaking the activity considered to be illegal which may lead to a criminal sentence.</i>”]<sup>146</sup></p>	
	<p><b>Number of cases recorded by the police in 2022</b></p>	<p><b>Number and details of cases (if available)</b></p> <p>Hungarian National Police Headquarters (HNPH, <i>Országos Rendőrfőkapitányság, ORFK</i>) maintained that data are registered in the</p>

<sup>146</sup> CJEU, Case [C-821/19](#), 16 November 2021, para 108

		<p>relevant Unified Statistical System of Investigations and Prosecutions (USSIP, <i>Egységes Nyomozóhatósági és Ügyészégi Bűnügyi Statisztika, ENyÜBS</i>) after the closure of the investigation and not at the time of the launch of investigations. This means that data in the USSIP may not be accurate on the number of cases recorded by the police in 2022. The HNPH does not collect its own statistical data<sup>147</sup></p> <p>According to the HNPH, up to 15 December 2022, 82 procedures were launched on human trafficking, and 19 on facilitating illegal stay. No cases on facilitating and assisting illegal immigration<sup>148</sup> were registered. In its response to public data request, the Prosecutor Service of Hungary (<i>Magyarország Ügyészsége</i>) maintained that, according to their criminal justice case management system (<i>büntetőjogi szakág ügyviteli rendszere, BÜR</i>), which only contains data on prosecutorial investigations but not on investigations conducted by the police, on 15<sup>th</sup> December 2022, there were no ongoing prosecutorial investigations in relation to human trafficking, facilitation of illegal stay or facilitation and assisting of illegal immigration. Similarly, on the basis of data accumulated by 11 January 2023, in 2022, 123 investigations were launched either by the investigation authority (police) or the prosecution on human trafficking, while two were launched on facilitating illegal stay and none on facilitating and assisting illegal immigration.<sup>149</sup></p>
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<sup>147</sup> Responses of the HNPH to public data request on 31 August 2022, pp. 2-3., and on 20 December 2022, 29000/30385 – 3/2022, p. 1.

<sup>148</sup> Responses of the HNPH to public data request on 31 August 2022, pp. 2-3, and on 20 December 2022, 29000/30385 – 3/2022, p. 1.

<sup>149</sup> Responses of the Prosecutor Service of Hungary to public data request on 24 January 2023, NEUFIGA//98-3-1/2023, p. 1.

		Hungarian Helsinki Committee <sup>150</sup> had no information on any ongoing or recorded procedures on the basis of Article 353/A of Act C of 2012 <sup>151</sup>
	<b>Number of investigations initiated in 2022</b>	<b>Number and details of cases (if available)</b> According to the HNPH, up to 15 August, 41 procedures were launched on human trafficking, and two on facilitating illegal stay. No cases on facilitating and assisting illegal immigration <sup>152</sup> were registered  See general comments above on the relevance of these data for 2022.
	<b>Number of court decisions taken in 2022</b>	<ul style="list-style-type: none"> <li><b>Number and type of court decisions, information if decision is final.</b></li> </ul> <p>Source: Database of Court Decisions (<i>Bírósági Határozatok Gyűjteménye</i>)<sup>153</sup></p> <p><i>In relation to trafficking in human beings:</i></p> <p>Higher court judgments: two Curia and one Municipal Court of Appeal judgment on trafficking in human beings</p> <p>See Bfv.537/2021/12, Curia, 18 January 2022; Bfv.1451/2021/15, Curia, 10 May 2022</p> <p><b>Type of penalties imposed under Article 1 <a href="#">2002/946/JHA: Council Framework Decision of 28 November 2002 on the</a></b></p>

<sup>150</sup> See the website of the organisation at <https://helsinki.hu/>.

<sup>151</sup> Information provided by the Hungarian Helsinki Committee via email, 17 August 2022 and 16 December 2022.

<sup>152</sup> Response of the HNPH to public data request on 31 August 2022, pp. 2-3; data search on the [website](#) of the Department of Coordination and Statistics of the Ministry of Interior (*Belügyminisztérium Koordinációs és Statisztikai Osztály*), dates of accession: 11 November 2022; 18 December 2022.

<sup>153</sup> See database at [Bírósági Határozatok Gyűjteménye](#).

		<p><b>strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence</b></p> <ul style="list-style-type: none"> <li>- Imprisonment</li> <li>- Expulsion</li> </ul> <p>• <b>Describe in max three-four sentences the key court decisions in 2022 and add hyperlink to decision (if available):</b></p> <p><i>In relation to trafficking in human beings:</i></p> <p>Bfv.537/2021/12, Curia: the Curia established that the court of first instance (District Court of Székesfehérvár), disregarding the general rules on temporal effect, imposed (in addition to two years' imprisonment) an unlawful sanction of five years' expulsion under Article 353 (1)-(2) of Act C of 2012, which the Curia reduced to four years</p> <p>Bf.246/2021/35: the instances of trafficking in human beings correspond to the number of country borders intended to cross, regardless of whether or not there is border control within the Schengen area or the border crossing was achieved</p>
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## **4.2 Use of large-scale information technology (IT) systems in the area of asylum, migration and border control**

The homepage of the National Authority for Data Protection and Freedom of Information (*Nemzeti Adatvédelmi és Információszabadság Hatóság*, NAIH) contains information on the use of several large-scale IT systems in the area of asylum, migration and border control (e.g. Schengen Information System (SIS), Visa Information System (VIS), Customs Information System (CIS), Eurodac).<sup>154</sup> The relevant webpages provide information on the operation of the IT system, the data handled by the authorities, the authorities involved, citizens' rights, and the complaint procedures (e.g. how to have data corrected or erased). A comprehensive guide on the application of the EU IT systems (SIS, VIS, Eurodac, Europol, Terrorist Finance Tracking Programme (TFTP)) was compiled by the NAIH in 2020.<sup>155</sup>

The Hungarian Helsinki Committee has not issued related guidelines and has no information on ongoing complaint procedures.<sup>156</sup>

In its response to the public data request, the HNPH stated that it could not provide information on any available guidelines or ongoing complaint procedures. According to the HNPH, the national plans to introduce and apply the Entry-Exit System (EES) follow the necessary central EU and national developments coordinated by the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) and the schedule determined by the 11 July meeting of the EU Justice and Home Affairs (JHA) Council. The HNPH assumes that EES could be launched in mid-May 2023.<sup>157</sup> A data request was sent to the Ministry of the Interior (*Belügyminisztérium*).<sup>158</sup> However, the Ministry transferred the public data request to the National Directorate-General for Aliens Policing (*Országos Idegenrendészeti Főigazgatóság*). The National Directorate-General for Aliens Policing responded that "there is only one possible answer" to the question when Hungary would introduce the new systems: this date corresponds to the relevant EU schedule as to the application of these systems.<sup>159</sup>

The majority of the identified case-law does not directly concern appeals submitted to the Hungarian authorities to rectify data entered into the IT systems. Rather, they relate to cases in which the Hungarian authorities applied various measures

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<sup>154</sup> Relevant webpages on the website of the NAIH (*Nemzeti Adatvédelmi és Információszabadság Hatóság*) are available at: <https://www.naih.hu/schengeni-informacios-rendszer>, <https://www.naih.hu/eurodac>, <https://www.naih.hu/vizuminformacios-rendszer-vis>, etc.

<sup>155</sup> Hungary, NAIH (2020), '[Privacy Notice Concerning the Data Processing By The Hungarian National Data Protection And Freedom Of Information Authority For The Performance Of Official Tasks Related To EU IT Systems \(Sis, Vis, Eurodac, Europol, TFTP\) In the Area of Justice And Home Affairs](#)', 22 October 2020.

<sup>156</sup> Information provided by the Hungarian Helsinki Committee via email, 17 August 2022.

<sup>157</sup> Response of the HNPH to public data request on 31 August 2022, p. 1.

<sup>158</sup> See the website at [Ministry of the Interior](#) (*Belügyminisztérium*).

<sup>159</sup> Response of the National Directorate-General for Aliens Policing via email to public data request, 22 November 2022.



(expulsion, revocation of residence permit) on the basis of data entered into the SIS by other Member States.<sup>160</sup> In response to public data request, the NAIH maintained that in relation to the EU justice and home affairs IT systems they received 66 requests of which 60 concerned the exercise of related rights of the persons affected, such as access, deletion, modification. The NAIH regarded six of these requests as “complaints” of which it transferred two to the SIRENE Office, OIF/KKM. In two cases the NAIH conducted investigation. Apart from these, the NAIH initiated an assessment of the related IT systems five times beyond its regular control mechanisms. The NAIH maintained that – as these cases are “not administrative proceedings” – no formal administrative decision was rendered in them. On the one hand, the majority of these “assessment cases by nature” may be closed by the provision of general information, so these cases may not be found on the homepage of the NAIH. On the other hand, the NAIH maintains that all relevant and important information in relation to such cases and the tasks related to the EU IT systems may be found on its homepage both in Hungarian and in English.<sup>161</sup>

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<sup>160</sup> Hungary, [Database of Court Decisions](#) (*Bírósági Határozatok Gyűjteménye*): [Municipal Court \(Fővárosi Bíróság\)](#), 16.K.701.352/2022/10.and K.700702/2022/7 ; Szeged Court (*Szegedi Törvényszék*) K.700966/2022/8; Curia (*Kúria*) Kfv.II.37.633/2021/9.

<sup>161</sup> Response of the National Authority for Data Protection and Freedom of Information to public data request, NAIH-14-1/2023. 3 January 2023.

## 5. Information society, privacy and data protection

### 5.1 Initiatives in the use of artificial intelligence (AI) in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Government/business	Other – action plan	The AI Coalition ( <i>Mesterséges Intelligencia Koalíció</i> ), a group of AI professionals and government representatives, the Ministry for Technology and Industry ( <i>Technológiai és Ipari Minisztérium</i> ), established in 2020, announced an “AI Challenge” targeting citizens and businesses. The AI Challenge consists of several information activities: an e-learning course on AI, a YouTube channel dedicated to AI-related matters and exhibits across the country. The	Yes  Right to privacy  The AI Challenge places a significant emphasis on ethical and legal concerns related to the use of AI. The right to privacy is a core issue and the e-learning course aims to draw attention to the use of AI while respecting privacy of the citizen	AI Coalition ( <i>Mesterséges Intelligencia Koalíció</i> ) AI Challenge ( <i>MI Kihívás</i> ) <a href="https://ai-hungary.com/hu/tartalom/mi-akademia/ertsd-meg">https://ai-hungary.com/hu/tartalom/mi-akademia/ertsd-meg</a>

		AI Challenge aims to provide information on the possibilities of AI technology, the ethical concerns behind its application and responsible use. The e-learning course consists of interactive content and real-life scenarios that can be studied in two-three hours. The AI Challenge was launched in February 2022 and aims to reach one million people in Hungary		
Academia	Other - conference	The National Public Service University's Information Society Research Centre ( <i>Nemzeti Közzolgálati Egyetem Információs Társadalom Kutatóintézete</i> ) organised the "LegalTech" conference on 23-24 June 2022 in Budapest. It featured speeches and	Yes  Access to justice  The conference examined how the use of AI may facilitate or weaken access to justice. Speakers agreed that AI may help courts speed up the proceedings that can strengthen access to justice. They also stressed that AI should not take decision-making away from judges and that it should not lead to the elimination of the discretionary power the law grants to judges	National Public Service University LegalTech Conference ( <i>Nemzeti Közzolgálati Egyetem LegalTech Konferencia</i> ) 23-24 June 2022, Budapest <a href="https://www.uni-nke.hu/hirek/2022/06/27/agep-ne-dontson-onmaganemzetkozi-legaltech-konferencia-az-nke-n">https://www.uni-nke.hu/hirek/2022/06/27/agep-ne-dontson-onmaganemzetkozi-legaltech-konferencia-az-nke-n</a>

	<p>roundtable discussions on three topics:</p> <ol style="list-style-type: none"><li>1. How can AI assist access to justice?</li><li>2. How can AI improve the efficiency of judicial practice?</li><li>3. Ethical legal concerns related to LegalTech.</li></ol> <p>The conference covered the various steps of digitalisation in judicial practice (converting analogue to electronic data, restructuring processes with the help of IT, using AI to adapt to new challenges). The conference addressed ethical and legal problems, primarily the fear of depersonalisation in court proceedings, reduced handling of cases individually and the loss of judges' discretion. It concluded AI should only assist and never replace the work of judges, therefore it cannot be a</p>		
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		major factor in decision-making		
Academia	Study	The study analyses a decision of the National Authority for Data Protection and Freedom of Information ( <i>Nemzeti Adatvédelmi és Információszabadság Hatóság</i> ), the Hungarian Data Protection Authority (DPA), on 8 February 2022. The decision imposed a monetary fine against a Hungarian financial institution that recorded customer service calls and analysed the tone and the words used by the clients to improve the efficiency of its customer service. The DPA based its decision on the General Data Protection Regulation (GDPR), as the financial institution did not inform clients that the recorded calls would be subject to voice	Yes  Data protection, right to privacy  The study concluded that even the encouragement of businesses to use AI technology cannot exempt them from complying with data protection laws	Bojnár, K. and Püнкösty, A., 'Does DPA play a role in constructing AI applications based on trust?' ( <i>Üttörő szerepben a NAIH a bizalomra épülő mesterséges intelligencia alkalmazások kiépítésében?</i> ) Ludovika, 15 July 2022 <a href="https://www.ludovika.hu/blog/itkiblog/2022/07/15/uttoro-szerepben-a-naih-a-bizalomra-epulo-mesterseges-intelligencia-alkalmazasok-kepiteseben/">https://www.ludovika.hu/blog/itkiblog/2022/07/15/uttoro-szerepben-a-naih-a-bizalomra-epulo-mesterseges-intelligencia-alkalmazasok-kepiteseben/</a>

		<p>analysis, stating only that calls are recorded to improve customer service. The study concluded that the use of AI must always respect data protection laws. The study analysed the case from the perspective of the EU's Draft AI Regulation and concluded that the fact the EU promotes the use of AI technology for businesses does not exempt businesses from respecting data protection laws. Therefore, businesses should always analyse whether the AI tools they plan to use conform with the requirements of the GDPR</p>		
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## 5.2 Legal and policy initiatives on data protection and private life

Act CXII of 2011 on the right to informational self-determination and on freedom of information (*2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról*)<sup>162</sup> (Info Act) was amended by Act CXXII of 2021 on the amendment of certain laws related to justice and connected areas (*2021. évi CXXII. törvény egyes igazságügyi tárgyú, valamint kapcsolódó törvények módosításáról*).<sup>163</sup> The amendments entered into force on 1 January 2022 and introduced several novelties into the Info Act:

- Article 60/A(1): The length of time between the receipt of the notice requesting information for ascertaining the relevant facts of the case and provision of those facts was excluded from the 150 days administrative time limit in data protection proceedings of the NAIH;
- Article 60/A(2a): The NAIH may suspend the administrative proceedings for data protection if a question arises where the decision falls within the jurisdiction of another body or person, or the case cannot be reliably resolved without the Authority's decision in another proceeding that closely relates to the case at hand.
- Article 61(1)(a): In its resolution adopted in administrative proceedings for data protection, the Authority may order - on request or *ex officio* - the erasure of unlawfully processed personal data in such a way as it may specify, or may otherwise impose a temporary or definitive limitation on processing of those data.

NAIH delivered a decision on 8 February 2022 in the case of a Hungarian financial institution that had carried out voice analysis on phone calls to its customer service without providing for information on the legal ground of controlling data. The financial institution only informed calls that their calls were recorded to improve customer service. In reality, the callers' tone of voice and words used were analysed to determine their mood, satisfaction or dissatisfaction. The financial institution intended to use the results for training and loyalty measures. The NAIH found that the AI used to analyse the calls followed an algorithm that was not made known to clients, nor were the criteria on conclusions on callers' moods made known to clients. It concluded that the business violated Article 5(1) of the GDPR as it did not provide sufficient information on the purpose of data collection,

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<sup>162</sup> Hungary, [Act CXII of 2011 on the right to informational self-determination and on freedom of information](#) (*2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról*), 27 July 2011.

<sup>163</sup> Hungary, [Act CXXII of 2021 on the amendment of certain laws related to justice and connected areas](#) (*2021. évi CXXII. törvény egyes igazságügyi tárgyú, valamint kapcsolódó törvények módosításáról*), 1 January 2022.

and imposed a fine of HUF 250 million (€ 626,295).<sup>164</sup> A study analysing the potential effects of the decision concluded that businesses should always analyse the conformity of their intended AI technology with the GDPR.<sup>165</sup>

There were no legal or policy developments on data retention, cybercrime, online terrorist content, online hate speech, e-evidence and the proposed Digital Services Act in 2022.

On 31 January 2022, the NAIH published the conclusions of its investigation into the use of Pegasus spy software.<sup>166</sup> It concluded that no information indicated that the persons requesting and conducting surveillance against politicians of the opposition parties, journalists, lawyers, businessmen and staff members of civil society organisations had violated any laws. The Authority based its conclusions on the fact that surveillance justified by national security purposes does not fall under the scope of EU law, therefore the provisions of the GDPR did not apply. Hungarian law entitles the Minister of Justice (*igazságügyi miniszter*) to authorise secret surveillance for national security purposes. As there is no restriction on the persons who may be subject to secret surveillance, the national security services may undertake such surveillance of anybody.<sup>167</sup> It emphasised that the investigation did not find any evidence that the national security services used the software for purposes other than the prevention and detection of criminal offences and terrorist acts. The Authority added that it was unable to prove beyond a doubt, or to rule out, data protection at the data managers investigated' however, if the criminal authority's investigation were to find a data leak due to a data protection incident, the Authority would then investigate. In June 2022, the prosecution service terminated the criminal proceeding, citing the absence of a criminal offence.<sup>168</sup>

The Operative Corps (*Operatív Törzs*) was established to decide on the protective measures to contain the COVID-19 outbreak in 2020. On 19 September 2022, the government ordered that all minutes of the Operative Corps' meetings were confidential and could not be disclosed.<sup>169</sup> In June 2022, the media company HVG had petitioned the court for the publication of the minutes of the Operative Corps' meetings, as data of public interest. HVG claimed that the public had the right to know why and on

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<sup>164</sup> Hungary, NAIH, [Decision no. NAIH-85-3/2022](#), 8 February 2022.

<sup>165</sup> Bojnár, K. and Püncösty, A., '[Does DPA play a role in constructing AI applications based on trust?](#)' (*Üttörő szerepben a NAIH a bizalomra épülő mesterséges intelligencia alkalmazások kiépítésében?*), *Ludovika*, 15 July 2022.

<sup>166</sup> Hungary, NAIH (2022), '[Conclusions of the investigation launched ex officio in relation to the Pegasus spyware's application in Hungary](#)' (*A Pegasus kémsoftver Magyarországon történő alkalmazásával összefüggésben hivatalból indított vizsgálat megállapításai*), 31 January 2022.

<sup>167</sup> Hungary, [Act CXXV of 1995 on the national security services](#) (1995. évi CXXV. törvény a nemzetbiztonsági szolgálatokról), Section 56, 27 March 1996.

<sup>168</sup> Hungary, Central Investigative Prosecution Service (*Központi Nyomozó Főügyészség*) (2022), '[There has been no unauthorised surveillance in the so-called Pegasus case](#)' (*Nem történt jogosulatlan megfigyelés az ún. Pegasus ügyben*), 15 June 2022.

<sup>169</sup> Hungary, [Government Decree no. 356/2022 on the exercise of rights related to the publicity of data of public interest during the state of danger](#) (356/2022. (IX. 19.) Korm. rendelet egyes közérdekű adatok nyilvánosságával kapcsolatos jogok veszélyhelyzet idején történő gyakorlásáról), 19 September 2022.



what grounds the Corps made decisions that introduced restrictions to the lives of millions. The government's decision on classification had retrospective effect, and thus applied to proceeding ongoing at the time the decision was promulgated.<sup>170</sup>

On 28 September 2022, civil society organisations won a lawsuit against Figyelő, a pro-government media that published a list of NGOs and staff members under the title "Soros mercenaries". The court emphasised the list was false, unnecessary and might induce fear against the organisations included.<sup>171</sup>

On 29 September 2022, the ECtHR delivered a judgment in the case of *Hüttl v. Hungary*.<sup>172</sup> The claimant was a lawyer from the Hungarian Civil Liberties Union (*Társaság a Szabadságjogokért*) who believed that the authorities had tapped a phone call between him and his client, who was under investigation by the Hungarian tax authority. The claimant lodged a complaint to the Minister for National Security Services and to the National Security Committee of the Hungarian Parliament (*Parlament Nemzetbiztonsági Bizottsága*). The Committee, by the majority vote of the delegates of the governing political party, prevented the launch of an investigation. The claimant then turned to the ECtHR. The ECtHR held there had been a violation of Article 8 of the ECHR, stressing the lack of an external oversight mechanism for the order and execution of secret surveillance operations in Hungary, and the lack of efficient remedy for data subjects. It also concluded that while the NAIH is, in theory, authorised to investigate the activities of the national security services, the restrictions on its access to the documents of the national security services prevent it from exercising independent control over the activity of these services. The Minister for the National Security Services can investigate the alleged incidents, but may not want information on secret surveillance to be made public.

On 18 October 2022, Freedom House published its "Freedom on the Net 2022" report on Hungary, covering the period between 1 June 2021 and 31 May 2022.<sup>173</sup> It concluded that internet freedom continues to decline in Hungary. While there are few overt restrictions on content in Hungary, the government continues to consolidate its control over the telecommunications and media landscape. The report highlighted several cases where the opposition political parties experienced significant cyberattacks, especially during their primary elections in autumn 2021. It stressed that the government does not restrict commercial information and communications technology (ICT) infrastructure, and networks are owned by private companies rather than the State. The ICT market, on the other hand, lacks significant competition in Hungary: 4iG, a company with ties to the

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<sup>170</sup> HVG (2022), ['In the middle of HVG's litigation, the government changed the rules to keep the minutes of the Operative Corps's meetings confidential'](#) (A HVG bírósági perének közepén írta át a kormány a szabályokat, hogy eltitkolhassa, miről szóltak az operatív törzs ülései), 20 September 2022.

<sup>171</sup> 444.hu (2022), ['The Soros list of Figyelő is false, unnecessary and able to induce fear, according to the court'](#) (A Figyelő Soros-listája hamis, szükségtelen és félelmeltető volt a bíróság szerint), 28 September 2022.

<sup>172</sup> ECtHR, [Hüttl v. Hungary](#), No. 58032/16, 29 September 2022.

<sup>173</sup> Freedom House (2022), ['Freedom on the Net 2022 Country Report – Hungary'](#), 18 October 2022.

government, further consolidated its share of the market in 2022. Freedom House gave Hungary a score of 4, compared to a score of 5 in its earlier report, reflecting the government's implementation of the EU regulation ordering Member States to block websites of Russia Today and Sputnik. The report concluded that the Hungarian government otherwise rarely blocks websites and does not place any restrictions on access to social media or communications applications. It emphasised that the impartiality and transparency of the oversight body, the National Media and Communications Authority (*Nemzeti Média és Hírközlési Hatóság*), is questionable, as the government appoints the Head of the Authority.

## 6. Rights of the child

### 6.1 Measures addressing vulnerabilities of children living in poverty and developments in the national implementation of the EU Child Guarantee

- Measures addressing vulnerabilities of children living in poverty and developments in the national implementation of the [EU Child Guarantee](#).

<b>Legislative changes</b>	<b>In 2022, there were no legislative developments that impacted children accessing health, education, social protection and other services</b>
<b>Policy changes</b>	In 2022, there were no policy changes targeting children living in poverty or national policy measures improving children's access to health, education, social protection and other services
<b>Other measures or initiatives</b>	<p>The National Reform Programme of Hungary for 2022 (<i>Magyarország 2022. évi Nemzeti Reform Programja</i>) contains an initiative to fight against child poverty, specifically to protect children living in poverty from dropping out of school. The programme targets 10,000 children, mostly Roma children, and assists them from the very early ages to better acclimate to school requirements. The programme offers sessions for parents and children to develop children's social and learning skills.<sup>174</sup></p> <p>At the end of January 2022, detergent manufacturer, Persil, launched its "Persil for children" (<i>Persil a gyerekekért</i>) campaign to help children living in poverty. As part of the campaign, Persil provided 2,500 households with enough detergent to wash clothes for six months. It also launched a scholarship and mentor programme to assist children living in families with financial difficulties and to address the psychosociological needs of children living in poverty. As of June 2022, there were 50 beneficiaries of the scholarship programme.<sup>175</sup></p>

<sup>174</sup> Hungary, [National Reform Programme of Hungary for 2022](#) (*Magyarország 2022. évi Nemzeti Reform Programja*), p. 40.

<sup>175</sup> Trade Magazin (2022), '[Persil helped more than 2,500 families](#)' (*Több mint 2500 hátrányos helyzetű családot támogatott a Persil*), 2 June 2022.

On 28 March 2022, the Civil Coalition on the Rights of the Child (*Gyermekjogi Civil Koalíció*) published a study<sup>176</sup> on the impact of the infamous “paedophile law”<sup>177</sup> adopted by the Hungarian Parliament in 2021. In addition to introducing stricter penalties against paedophile offenders, the law also introduced some amendments and additions to existing laws that civil society organisations and international organisations considered to be serious violations of the rights of LGBTIQ people.<sup>178</sup> The law prohibits programmes on portraying divergence from self-identity, corresponding to sex at birth, sex change or homosexuality.<sup>179</sup> The report of the Civil Coalition concluded that the new law and the rhetoric of the Hungarian government, which systematically blamed civil society organisations for spreading LGBTIQ propaganda among children, leads to general hostility in society and in schools. Even volunteers providing sexual orientation training in schools were no longer certain that their role was legal. The report contained several examples of how schools applied the law in practice: one kindergarten refused to let a child choose a rainbow as his sign, while the principal of an elementary school warned a boy to dress and behave according to his biological gender in school or risk expulsion. Discussions on sexual health and sexual orientation in the schools became less frequent.

On 26 May 2022, the Hinalovon Child Rights Foundation (*Hinalovon Gyermekjogi Alapítvány*) published its 2021 annual report on child rights.<sup>180</sup> The report highlighted the serious shortage of child protection workers, in both the private and public sectors. It criticised government inactivity for seriously damaging children’s access to education and medical assistance. It reported that almost 100,000 children live in settlements without family doctors, and highlighted one district in north-eastern Hungary where almost 3,000 children are under the care of one psychologist. The

<sup>176</sup> Hungary, Civil Coalition on the Rights of the Child (*Gyermekjogi Civil Koalíció*) (2022), ‘[Exclusion, stigma, fear and insecurity – this was left after the government campaign](#)’ (*Kirekesztés, megbélyegzés, félelem és bizonytalanság – ez maradt a kormányzati kampány nyomában*), 28 March 2022.

<sup>177</sup> Hungary, [Act LXXIX of 2021 on taking more severe action against paedophile offenders and amending certain acts for the protection of children](#) (2021. évi LXXIX. törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról), 8 July 2021.

<sup>178</sup> Amnesty International Hungary (2021), ‘[You are not alone: let’s protect LGBTIQ people!](#)’ (Nem vagy egyedül: védjük meg az LMBTQI embereket!).

<sup>179</sup> Hungary, [Act LXXIX of 2021 on taking more severe action against paedophile offenders and amending certain acts for the protection of children](#) (2021. évi LXXIX. törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról), 8 July 2021, Section 9(2); Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*) (2021), ‘[In lack of social support, the Parliament still voted on the Putin-style propaganda act](#)’ (*Társadalmi támogatottsága nincsen, az Országgyűlés mégis megszavazta a putyini propagandatörvényt*), 15 June 2021.

<sup>180</sup> Hinalovon Child Rights Foundation (*Hinalovon Gyermekjogi Alapítvány*) (2022), ‘[Report on Child Rights for 2021](#)’ (2021-es Gyermekjogi jelentés).

report criticised recent government programmes (housing support initiatives, housing modernisation support) for ignoring social elements and remaining open to families in good financial conditions. The digital education introduced during the COVID-19 pandemic further widened the gap between pupils living in socioeconomically disadvantaged areas and those living under better conditions, as most children had no infrastructure to participate effectively in e-learning. The report noted that public authorities are increasingly reluctant to share their data and statistics with NGOs. The Foundation believes that the public sector of child protection is “in the crossfire of political and ideological battles”.

As of 1 August 2022, the government restricted the availability of the public utility cost reduction that has been offered to everyone since 2013. Under the public utility cost reduction programme, the government has fixed energy prices. Due to the energy crisis, the government introduced a cap on energy consumption. The reduced gas prices are only available up to 1,729 m<sup>3</sup> per property. Beyond that, consumers pay the market price that is seven times higher than the price available in the public utility cost reduction programme. The government, however, provides for an additional 600 m<sup>3</sup> (beyond the generally available 1,729 m<sup>3</sup>) at the reduced price to families raising three children. Families having more than three children can receive an additional 300 m<sup>3</sup>/child at the reduced price. The extra amount of discounted gas is not provided automatically to families, they have to apply for it at the government offices.<sup>181</sup>

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<sup>181</sup> Kormany.hu (2022), '[Public utility cost reduction – Large families should not forget to apply for the discounted gas prices at the government offices!](#)' (*Rezsicsökkentés – A nagycsaládosok ne felejtsek el a kormányablakban igényelni a földgázkedvezményt!*), 5 November 2022.

## 6.2 Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.

<b>Legislative changes</b>	<b>In 2022, there were no legislative changes to child-friendly procedures for children as victims, witness or defendants in criminal proceedings</b>
<b>Policy developments</b>	<p>The media obtained data from the HNPH on the activities of school guards. The school guard system was introduced on 1 September 2020 to prevent acts endangering the safety of children and teachers at schools. School guards are recruited through the police website and trained by the police. They do not have weapons, but can use handcuffs and batons. As of 25 April 2022, 491 schools had joined the school guard programme and 480 people were trained to become school guards. They had to use physical force in 47 cases, handcuffs in three cases and a baton in one case. In four instances, criminal proceedings were initiated against school guards who exceeded their authority.<sup>182</sup> The Ministry of the Interior (<i>Belügyminisztérium</i>) informed the media that another 141 schools had signalled their intention to participate in the school guard programme.<sup>183</sup> The police shared information on the training for school guards: the 120 hours' training includes modules on pedagogy and psychology (40 hours), conflict resolution and crime prevention (24 hours), and law enforcement in practice (56 hours)<sup>184</sup></p>
<b>Other measures or initiatives</b>	<p>The Barnahus Association (<i>Barnahus Egyesület</i>) built a special three-room unit for child victims of abuse, in Szombathely, a city in the north-west of Hungary. It has one child-friendly, comfortably furnished interrogation room where a psychologist will interview the children, as well as one monitoring room where the police officer leading the investigation, the prosecutor and the guardian appointed to assist the child in the criminal proceeding may watch what is happening in the interrogation room. The psychologist has an earpiece that enables communication with those in the monitoring room, removing the need for the child to talk directly to the police. A forensic psychologist can examine the child in a third room, if</p>

<sup>182</sup> Telex (2022), '[School guards applied physical force in 47 cases, handcuffs in three cases and a baton in one case against children in the schools](#)' (*47 esetben testi kényszert, 3 alkalommal bilincset, egyszer pedig rendőrbotot is használtak az iskolaőrök a diákokkal szemben*), 25 April 2022.

<sup>183</sup> Magyar Nemzet (2022), '[School guards in another 141 schools](#)' (*Iskolaőrök újabb száznegyvenegy intézményben*), 12 July 2022.

<sup>184</sup> Information provided by the HNPH by phone on 5 September 2022.

	necessary. That expert may also watch what is happening in the interrogation room, removing the need for a second interrogation/examination of the child. Szombathely was the first city where the first Hungarian Barnahus service was established in 2013. <sup>185</sup>
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<sup>185</sup> Vaol (2022), ['The Barnahus service got to a milestone – a psychologist will interrogate children suspected of being victims of abuse'](#) (*Mérföldkőhöz érkezett a Barnahus-szolgálat – Pszichológus hallgatja majd ki az abúzusgyanús gyermekeket*), 25 May 2022.

## 7. Access to justice – victims’ rights and judicial independence

### 7.1 Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU Strategy for Victims’ Rights 2020-2025

In 2022, the National Judicial Council revealed several irregularities in appointments by the Chief Justice to the Curia which has also resulted in the appointment of a candidate arriving directly from the executive. The Hungarian Helsinki Committee also reported that in 2021, the Chief Justice to the Curia appointed judges and assigned judges to cases in violation of the relevant legal acts.<sup>186</sup> At present, the judges of the Curia are under considerable pressure to issue a declaration that would retrospectively “sanction” and support the course of action of the Chief Justice to the Curia. The Chief Justice would also like the judges to cast an open vote on his proposal, which may be interpreted as a loyalty test.<sup>187</sup> The European Commission mentioned the appointment and assignment practice of the Chief Justice to the Curia in its rule of law reports on Hungary in 2022, stating that “candidates with little judicial experience or coming from a political career without judicial experience have also been appointed.”<sup>188</sup> These irregularities may ultimately influence crime victims’ access to justice, as it calls into question the independence and professionalism of the judges. Nevertheless, the judicial review of administrative cases remains the major cause for concern.

#### A) Main legislative amendments

Measures and various aspects of victim support and protection remain under the auspices of two ministries, the Ministry of Justice (*Igazságügyi Minisztérium*),<sup>189</sup> which is primarily responsible for the operation and development of victim support services, and after May 2022, the Ministry of the Interior (*Belügyminisztérium*)<sup>190</sup> [until April 2022 the Ministry of Human

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<sup>186</sup> Presshelsinki/Rule of Law, ‘[Curia appointments violate law](#)’ (*Törvénybe ütköző bírói kinevezések a Kúrián*), 3 September 2021.

<sup>187</sup> Presshelsinki/Rule of Law, ‘[The Chief Justice of the Curia intends to belittle grave issues](#)’ (*A Kúria elnöke súlyos ügyeket szeretne elbagatellizálni*), 10 October 2022.

<sup>188</sup> European Commission (2022), ‘2022 Rule of Law Report Country Chapter on the rule of law situation in Hungary’, SWD(2022) 517 final, pp. 7-8.

<sup>189</sup> See the ministry’s website at [Ministry of Justice](#) (*Igazságügyi Minisztérium*).

<sup>190</sup> See the ministry’s website at [Ministry of the Interior](#) (*Belügyminisztérium*).



Resources (*Emberi Erőforrások Minisztériuma*) was the second ministry responsible]. The Ministry of the Interior is now responsible for various child protection and family care services, including the institutions available for child victims of domestic abuse.<sup>191</sup>

The former position of the Minister without Portfolio Responsible for Families (*Családokért felelős tárcanélküli miniszter*), responsible for the maintenance of crisis centres, secret shelters and crisis ambulance services, ceased to exist and its portfolio was taken over by the Minister leading the Prime Minister's Office (*Miniszterelnökséget vezető miniszter*)<sup>192</sup> under Government Decree no. 823/2021 (XII 30).<sup>193</sup>

In relation to the protection of child victims of neglect, abuse and/or sexual abuse, the Ministry of the Interior<sup>194</sup> referred to the amendments of Article 87 (1) point b) bb) of Act XC of 2017 on Criminal Proceedings (*2017. évi XC. törvény a büntetőeljárásról*)<sup>195</sup> to specify the role and operation of specialist consultants in the criminal proceedings who operate on the basis of the so called "Barnahus" method. The use of audio and video recordings prepared under the Barnahus model as evidence<sup>196</sup> and, thus, the participation of judicial psychologist experts in criminal proceedings were made possible as of 1 January 2021.<sup>197</sup> Procedural actions requiring the participation of children under the age of 18 in criminal proceedings may be conducted by a judicial psychologist expert or an expert service provider (Article 61 (2) Act XXXI of 1997 on the protection of

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<sup>191</sup> Hungary, [Government Decree no. 182/2022. \(V.24.\) on the tasks and competences of the members of the government](#) (182/2022. (V. 24.) Korm. rendelet a Kormány tagjainak feladat- és hatásköréről).

<sup>192</sup> See website at [Prime Minister's Office](#) (*Miniszterelnökség*).

<sup>193</sup> Hungary, [Government Decree no. 823/2021 \(XII 30\) on the modification of the tasks and competences of the Minister leading the Prime Minister's Office in the field of family, child and youth policy and on the modification of certain government decrees](#) (832/2021. (XII. 30.) Korm. rendelet A Miniszterelnökséget vezető miniszter család-, gyermek- és ifjúságpolitikai feladat- és hatáskörébe tartozó jogszabályok meghatározásáról és egyes kormányrendeletek módosításáról).

<sup>194</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2021. p. 1.

<sup>195</sup> Hungary, [Act XC of 2017 on Criminal Proceedings](#) (*2017. évi XC. törvény a büntetőeljárásról*), as amended by Article 173 of [Act CXXXIV on the modification of certain criminal justice legislative acts and in relation to this and other acts](#) (*2021. évi CXXXIV. Törvény egyes büntetőjogi tárgyú és ehhez kapcsolódóan egyéb törvények módosításáról*), which entered into force on 1 March 2022.

<sup>196</sup> Response of the Ministry of Human Resources to public data request, 15 October 2021, p. 1.

<sup>197</sup> Hungary, Act XC of 2017 on criminal proceedings (*2017. évi XC törvény a büntetőeljárásról*) as amended by Article 154 of [Act XLIII of 2020 on the amendment of the act on criminal proceedings and other related acts](#) (*2020. évi XLIII. törvény a büntetőeljárásról szóló törvény és más kapcsolódó törvények módosításáról*).

children and administration of guardianship (1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról, hereinafter Act XXXI of 1997)).<sup>198</sup> This legislative amendment was welcomed by the Hintalovon Foundation<sup>199</sup>, among others.

The Ministry of Justice in its response to public data request has not referred to any other legislative amendments. As they claim, in 2022, their main aim was to facilitate the operation of the opt-out system put in place in 2021 by the “development of the specific support system” that assists the “day-to-day” operation and work of the various actors within the state victim support system. Their aim is “the establishment of a direct connection between the specific systems used by the investigation authority and the victim support services in order to optimise data transfer”.<sup>200</sup> The Ministry of Justice also maintained that, since 2019, the capacity of the Hungarian Victim Support System has been quadrupled.<sup>201</sup>

## B) Policy measures

Government Decree no. 1645/2019 on the development of the victim support system (1645/2019. (XI. 19.) Korm. Határozat az áldozatsegítés rendszerének fejlesztéséről)<sup>202</sup> was adopted in 2019. It committed to the establishment of a national network of victim support centres (Áldozatsegítő Központok) by the end of 2025. Three new victim support centres opened in 2020 (in Pécs,<sup>203</sup> Szeged<sup>204</sup> and Kecskemét<sup>205</sup>), one opened in 2021 in Veszprém,<sup>206</sup> and an additional centre opened in Debrecen on 15

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<sup>198</sup> Hungary, [Act XXXI of 1997 on the protection of children and administration of guardianship](#) (1997. évi XXXI. törvény a gyermekek védelméről és a gyámügyi igazgatásról).

<sup>199</sup> Tóth, T. Cs. (2021), [‘The Barnahus model has been introduced for the hearing of abused children’](#) (Bevezette a magyar állam a Barnahus-módszert a bántalmazott gyermekek kihallgatására), *Mérce.hu*, 31 January 2021.

<sup>200</sup> Response of the Ministry of Justice to public data request, 16 December 2022, VII/ID/140/4/2022. p.1.

<sup>201</sup> Response of the Ministry of Justice to public data request, 17 January 2023, VII/5/2/2023.

<sup>202</sup> Hungary, [Government Decree no. 1645/2019 on the development of the victim support system](#) (1645/2019. (XI. 19.) Korm. Határozat az áldozatsegítés rendszerének fejlesztéséről).

<sup>203</sup> Hungary, Victim Support Centre (Áldozatsegítő Központ) (2020), [‘New victim support centre opens to help those in need’](#) (Új Áldozatsegítő Központ nyílt a bajbajutottak megsegítésére), 29 June 2020.

<sup>204</sup> Szegedma.hu (2020), [‘The victim support centre started its operation in Szeged’](#) (Megkezdte működését a szegedi áldozatsegítő központ), 3 December 2020.

<sup>205</sup> Hiros.hu (2020), [‘The Kecskemét victim support centre has opened – with video’](#) (Megnyílt a Kecskeméti Áldozatsegítő Központ – Videóval), 10 December 2020.

<sup>206</sup> Hungary, Victim Support Centre (Áldozatsegítő Központ) (2021), [‘Victim support centre opened at county seat’](#) (Átadták az Áldozatsegítő Központot a megyeszékhelyen), 30 June 2021.

February 2022<sup>207</sup> and in Eger in March 2022.<sup>208</sup> A victim support point also opened in Érd in January 2022,<sup>209</sup> in Siófok in June 2022,<sup>210</sup> in Békéscsaba in November 2022<sup>211</sup>,

In its response to public data request, the HNPH did not mention any policy measures, orders or guidelines in victim protection in 2022.<sup>212</sup>

According to information provided by the Ministry of Justice to public data request, 18,142 clients turned to the victim support system or were reached by the victim support system in 2021. This number comprises both those who contacted the victim support centres or victim support service providers operating in government offices and those whose call was taken by the Victim Support Line (10,904). By the end of 2022 (31 December), the overall number of clients who turned to the victim support or were reached by the victim support system increased to 24 404. According to data provided by the Ministry of Justice, the number of clients reached by the Victim Support Centres doubled compared to 2021, and reached 11,710. Similarly, the number of services provided to clients has also risen to 29,660 by December 2022. The Victim Support Line, which is operational 0-24, has taken, by December 2022, 9780 calls.<sup>213</sup>

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<sup>207</sup> Hungary, Victim Support Centre (*Áldozatsegítő Központ*) (2022), '[Our aim is to set up a nationwide network by 2025](#)' (*Varga Judit: A célunk, hogy 2025-re országos hálózatot hozzunk létre*), 18 May 2022..

<sup>208</sup> Hungary, Municipality of Eger (*Egri Önkormányzat*) (2022), '[Áldozatsegítő Központ nyílt Egerben](#)' (*Victim Support Centre Opened in Eger*), 25 March 2022.

<sup>209</sup> Erdmost.hu, '[Áldozatsegítő Pont nyílt Érden](#)' (*Victim support point opened in Érd*), 12 January 2022.

<sup>210</sup> Hungary, Victim Support Centre (*Áldozatsegítő Központ*), '[A victim support point opened in Siófok](#)' (*Áldozatsegítő pont nyílt Siófokon*), 3 June 2022.

<sup>211</sup> Hírma.hu, '[Átadták az áldozatsegítő pontot Békéscsabán](#)' (*The Victim Support Point in Békéscsaba has been opened*), 24 November 2022.

<sup>212</sup> Response of the HNPH to public data request, 31 August 2022, pp. 1-2.

<sup>213</sup> Response of the Ministry of Justice to public data request, 16 December 2022, VII/ID/140/4/2022. p.1. and Response of the Ministry of Justice to public data request, 17 January 2023., VII/5/2/2023, p.1.

## 7.2 Measures addressing violence against women

In 2014, Hungary signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). However, in May 2020, the parliament blocked its ratification,<sup>214</sup> claiming that the national law already provides adequate protection of the rights of women and children. The parliament did not wish to incorporate into the Hungarian legal system the concept of gender and the “gender perspective” of the Istanbul Convention. In addition, it deemed that the Istanbul Convention’s provisions demanding the accordance of refugee status on the basis of persecution on account of gender contradicted the parliament’s aims and the Hungarian legislative acts demanding effective measures against illegal migration. A recent expert opinion<sup>215</sup> disputes these reasons for the rejection of the ratification on the part of the Hungarian government, which controls the parliament by a two-thirds majority. Rather, it contended that the political declaration confounds the concept of “biological” gender (sex) and “social” gender (*biológiai és társadalmi nem*), and the denial of the existence of social gender is an arbitrary act, denying an existing phenomenon. It also stated the requirement to accord refugee status to those who are persecuted on account of their gender is already part of the Hungarian legal system, under the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol, as the persons concerned belong to a specific social group and thus fall under the scope of the Geneva Convention and its EU and national implementing legislative acts. If the Istanbul Convention were ratified, Hungary should develop its related infrastructure, including widespread training and awareness-raising to combat prejudice against women, prevent violence against women and promote gender equality. Hungary should also amend the Criminal Code to include new crimes, such as psychological violence, female genital mutilation (FGM), forced abortion, forced sterilisation, forced marriage, and menacing harassment. Hungary should also adopt measures to prevent the right of abusive parents’ access to their children.<sup>216</sup>

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<sup>214</sup> Parliament of Hungary, Political declaration no. 2/2020 (V.5.) on the importance of the protection of children and women and on the rejection of the accession to the Istanbul Convention (2/2020. (V. 5.) OGY politikai nyilatkozata a gyermekek és nők védelmének fontosságáról, valamint az Isztambuli Egyezményhez való csatlakozás elutasításáról).

<sup>215</sup> Dr Sánta, Sz.M., (2022), [Why should Hungary ratify the Istanbul Convention?](#) (Miért kellene Magyarországnak ratifikálnia az Isztambuli Egyezményt?).

<sup>216</sup> Dr Sánta, Sz.M., (2022), [Why should Hungary ratify the Istanbul Convention?](#) (Miért kellene Magyarországnak ratifikálnia az Isztambuli Egyezményt?).

Despite the Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence,<sup>217</sup> there are no new developments in respect of the Hungarian ratification of the Istanbul Convention.

According to experts, around 220,000 women may be affected by partner violence in Hungary.<sup>218</sup> Police statistics and related estimates show that roughly one woman is killed by her violent partner every week.<sup>219</sup> Victims find it very difficult to leave abusive partnerships, and abusive partners often threaten to take away the victims' children.<sup>220</sup> Research has shown that if the abusive partner demands the right to maintain contact and right of access to the children, the courts will allow it in at least 50 % of cases, i.e. the social and legal demand to maintain family unity prevails over the rights of children. According to expert opinions, the legal and judicial system is not capable of protecting victims or conveying to perpetrators that their conduct is unacceptable and will have consequences, and victim blaming is still widespread.<sup>221</sup> The article citing these expert opinion refers to victims complaints about the incompetence of the police, their refusal to initiate criminal proceedings without the victim's denunciation, the mis-qualification of the crime of partner violence as harassment, the failure on the part of the authorities to keep the victims informed, and the length of the criminal proceedings, which could extend over five years.<sup>222</sup>

The Ministry of Justice in its response to public data request has not referred to any other legislative amendments. They remarked, however, that "Hungary acknowledges the all-time necessity to take steps against every form of violence against women and, accordingly, our country, has had a comprehensive legal regulation in place for years, furthermore, EU legislation is also under way which the Government follows with great attention".<sup>223</sup>

In its response to the public data request, the Ministry of Human Resources maintained that "No new family or children's temporary homes were created in 2020 or 2021. However, as of 1 January 2018, it has been possible to create external accommodation for operators of temporary homes for families. A family transition home can provide external accommodation for families who are able to live independently with low support intensity. Families can currently stay in a temporary family

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<sup>217</sup> EU Commission (2022), '[Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence](#)', COM/2022/105 final.

<sup>218</sup> FRA (2014), '[Violence against women: an EU-wide survey - Survey methodology, sample and fieldwork. Technical report](#)'; Liptai, L. and Balázs, B. (2022), '[It is difficult to obtain a medical attest on everyday abuse](#)' (A mindennapos hatalmaskodásról nehéz orvosi látteleletet venni), Telex.hu, 19 May 2022.

<sup>219</sup> MÉRCE.hu, '[A nők és gyermekek elleni erőszak áldozatai](#)', updated homepage with data for 2014-2022; Nők joga (2018), '[Statistics](#)' (Statisztikák).

<sup>220</sup> Liptai, L. and Balázs, B. (2022), '[It is difficult to obtain a medical attest on everyday abuse](#)' (A mindennapos hatalmaskodásról nehéz orvosi látteleletet venni), Telex.hu, 19 May 2022.

<sup>221</sup> Liptai, L. and Balázs, B. (2022), '[It is difficult to obtain a medical attest on everyday abuse](#)' (A mindennapos hatalmaskodásról nehéz orvosi látteleletet venni), Telex.hu, 19 May 2022.

<sup>222</sup> Liptai, L. and Balázs, B. (2022), '[It is difficult to obtain a medical attest on everyday abuse](#)' (A mindennapos hatalmaskodásról nehéz orvosi látteleletet venni), Telex.hu, 19 May 2022.

<sup>223</sup> Response of the Ministry of Justice to public data request, 16 December 2022, VII/ID/140/4/2022. p.1.

home for 12 months, which can be extended by six months if necessary. Families can stay in the external accommodation for a total of three years, including the time spent in the family transition home.”<sup>224</sup>

The following tables were provided by the Ministry of Human Resources in its response to the public data request. They present data on the number of places in institutions providing temporary accommodation for families and children.<sup>225</sup>

“Data on **temporary accommodation for families and children**, based on the data in the register of service providers (on 15 August 2022)”:<sup>226</sup>

<b>Form of service</b>	<b>Number of institutions</b>	<b>Number of places</b>
<b>Children's temporary home</b>	29	426
<b>Temporary home for families</b>	116	4201

“**Children's temporary homes** with numbers of places, by owner”:<sup>227</sup>

<b>Sustaining type</b>	<b>Number of institutions</b>	<b>Number of places</b>
<b>Municipal</b>	22	312
<b>NGO</b>	6	102
<b>Central government</b>	1	12

<sup>224</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022.

<sup>225</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022. p. 5.

<sup>226</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022. p. 5.

<sup>227</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022. p. 5.

**“Temporary homes for families, with numbers of places, by owner”:**<sup>228</sup>

<b>Sustaining type</b>	<b>Number of institutions</b>	<b>Number of places</b>
<b>Municipal</b>	34	1,083
<b>Ecclesiastical</b>	32	1,167
<b>NGO</b>	50	1,951

**“Data on the number of external places for families in temporary accommodation”:**<sup>229</sup>

<b>Date of query</b>	<b>Number of external places</b>
<b>31 December 2020</b>	17
<b>31 December 2021</b>	41
<b>8 August 2022</b>	64

In its response to the public data request, the HNPH did not mention any new policy measures, orders or guidelines in the protection of victims of violence against women in 2022. The HNPH regards the 2/2018 Order on the implementation of police tasks regarding domestic violence (*A hozzátartozók közötti erőszak kezelésével összefüggő rendőrségi feladatok végrehajtására kiadott 2/2018. (I. 25.) ORFK utasítás*) as the most relevant guidance and policy measure on police

<sup>228</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022. p. 5.

<sup>229</sup> Response of the Ministry of the Interior to public data request, via email, 12 September 2022. pp. 5-6.

responsibilities in relation to domestic violence. It reported that the full implementation of the opt-out system introduced last year is still underway.<sup>230</sup> The opt-out victim support system obliges the authorities to “reach out” directly to victims of deliberate violent crimes directed against one’s person, sexual crimes, crimes related to prostitution and child prostitution, harassment, robbery, and certain forms of theft. This implies that these victims are informed when they report the crime, or at their hearing, about the victim protection services available and their entitlement to support. If the victims do not oppose it, their data are transferred directly to the victim support services, which will then make contact (see e.g. Article 43/A, Article 24 of Act CXXXV of 2005 on Crime Victim Support and State Compensation).<sup>231</sup>

According to the USSIP, the number of criminal procedures registered in the case of partner violence was 1,505 in 2021, and 748 until 30 July 2022. However, the HNPH noted that data are entered in the USSIP only after the closure of the investigation and not at the time of the launch of investigations, thus it may not be fully representative of 2022. The HNPH does not collect its own statistical data.<sup>232</sup> According to data provided by the HNPH, 2,075 temporary barring orders were issued by the police in 2021, while 1,181 such orders were issued to 15 August 2022. No data are available on the numbers of crisis situations that saw police intervention and victims supported to reach safe houses or crisis centres.<sup>233</sup>

According to information provided by the Ministry of Justice, in 2021, 511 victims of partner violence and 143 victims of sexual violence requested victim support services. In 2022, 767 (672 women) victims of partner violence and 197 (176 women) victims of sexual violence requested victim support services. In 2021, the number of women victims of partner violence was 439, the number of women victims of sexual violence was 121. In the first half of 2022, the number of women victims of partner violence was 338, the number of women victims of sexual violence was 79. Almost all victims requested the available “promotion of the victim’s interest” service from the victim support services. The above-mentioned data do not include the

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<sup>230</sup> Response of the HNPH to public data request, 31 August 2022, p. 2.

<sup>231</sup> Hungary, [Act CXXXV of 2005 on Crime Victim Support and State Compensation](#) (2005. évi CXXXV. törvény a bűncselekmények áldozatainak segítéséről és az állami kárenyhítésről), 6 December 2005.

<sup>232</sup> Response of the HNPH to public data request, 31 August 2022, pp. 2-3.

<sup>233</sup> Response of the HNPH to public data request, 31 August 2022, p. 3.



number of those clients who wished to remain anonymous. The Victim Support Centres provided services to 62 such clients in 2021 and to 56 such clients in the first half of 2022.<sup>234</sup>

NGOs deemed many governmental actions in 2022 as the “abusive” actions of an “abusive” government. In particular, they considered harmful the “heartbeat” regulation and the communication of the State Audit Office on too many women attending higher education.<sup>235</sup> The former example concerns the 2022 September amendment of a regulation on abortion which requires that a clearly identifiable indication of the vital signs of the foetus (heartbeat) is to be shown to the pregnant woman before an abortion may take place.<sup>236</sup> This measure sparked protests from NGOs and other actors for being unprofessional and only aggravating the trauma of abortion.<sup>237</sup>

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<sup>234</sup> Response of the Ministry of Justice to public data request, 15 December 2022, VII/ID/140/4/2022. p.1. and Response of the Ministry of Justice to public data request, 17 January 2023., VII/5/2/2023, p.1.

<sup>235</sup> Hvg.hu (2022), An abusive government always operates with abusive tools ([Egy bántalmazó kormány mindig bántalmazó eszközökkel operál](#)), 25 December 2022.

<sup>236</sup> Hungary, [Regulation 29/2022 \(IX. 12.\) of the Minister of Interior amending Regulation 32/1992 \(XII. 23.\) executing law LXXIX of 1992 on the protection of foetal life](#) (A belügyminiszter 29/2022. (IX. 12.) BM rendelete a magzati élet védelméről szóló 1992. évi LXXIX. törvény végrehajtásáról szóló 32/1992. (XII. 23.) NM rendelet módosításáról). The Regulation requires “showing, to the pregnant woman, a clearly identifiable indication of the vital signs of the foetus”, commonly interpreted as the heartbeat of the foetus.

<sup>237</sup> Hetzmann, M. (2022), [Photos: Demonstration against abortion restrictions at the Hungarian Parliament](#); International Planned Parenthood Federation European Network (2022), [Abortion care: Hungary’s heartless move will humiliate and harm women, 15 September 2022.](#)

## 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

### 8.1 Convention on the Rights of Persons with Disabilities (CRPD) policy, legal developments and implementation of the European Accessibility Act

Hungary had not transposed the **European Accessibility Act** into national law by the transposition deadline of 28 June 2022,<sup>238</sup> and received a letter of formal notice from the European Commission on 20 July 2022.<sup>239</sup>

The UN Committee on the Rights of Persons with Disabilities (the Committee) issued its latest findings on Hungary's implementation of the CRPD in March 2022.<sup>240</sup> Based on Hungary's combined second and third periodic reports,<sup>241</sup> the Committee commended<sup>242</sup> the country for its National Disability Programme 2015-2025<sup>243</sup> and for incorporating in the Fundamental Law that "Hungary shall protect Hungarian Sign Language as a part of Hungarian culture."<sup>244</sup>

However, the Committee also expressed concerns about the limited possibilities for autonomous decision-making for people living with disabilities. It recommended that "Hungary amends its legislation to ensure that the country's **supported decision-making mechanisms** respect the dignity, autonomy, and will and preference of people with disabilities in exercising their

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<sup>238</sup> EUR-Lex, [National transposition measures communicated by the Member States](#) concerning [Directive \(EU\) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services](#) (Text with EEA relevance) PE/81/2018/REV/1 OJ L 151, 7.6.2019, pp. 70-115.

<sup>239</sup> European Commission (2022), '[Non-transposition of EU legislation: Commission takes action to ensure complete and timely transposition of EU directives](#)', 20 July 2022.

<sup>240</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR) (2022), '[UN Disability Rights Committee issues findings on Hungary, Jamaica, Mexico, Switzerland and Venezuela](#)', Press release, 29 March 2022.

<sup>241</sup> Committee on the Rights of Persons with Disabilities (2019), '[Combined second and third periodic reports submitted by Hungary under Article 35 of the Convention pursuant to the optional reporting procedure](#)', received on 30 April 2018.

<sup>242</sup> UN (2022), '[Experts of the Committee on the Rights of Persons with Disabilities Commend Hungary's Recognition at the Constitutional Level of Sign Language, and Ask about Guardianship](#)', Meeting summaries, 10 March 2022.

<sup>243</sup> Hungary, [Decision no. 15/2015 \(of 07.04\) OGY of the National Assembly on the National Disability Programme \(2015-2025\)](#), 4 July 2015.

<sup>244</sup> Hungary, Article H (3) of the [Fundamental Law of Hungary](#), 25 April 2011.

legal capacity.”<sup>245</sup> In this context, a recent qualitative analysis also concluded that the Hungarian legislation does not comply with the CRPD and even though it recognises supported decision-making, in practice, substitute decision-making prevails. It further noted that Hungarian law allows for placement under plenary guardianship that completely replaces someone’s legal capacity – overall, contributing to a paternalistic rather than an autonomy-based system of protection.<sup>246</sup>

The UN press release on the Committee’s findings also stated that “regarding Hungary’s latest decision to refurbish and transform the existing institutions, the Committee recommended that Hungary redesigns its measures and redirects its effort and budgets into **community-based support services**, such as personal assistance. The Committee stressed the importance of providing support to people with disabilities to live independently and equally with others in the community, regardless of the type of impairment they have.”<sup>247</sup>

The Committee’s recommendations reflect NGO concerns about the implementation of Hungary’s deinstitutionalisation plan. In its February 2022 CRPD submission, the Validity Foundation and the Hungarian Civil Liberties Union called on Hungary to stop the institutionalisation of people with disabilities, including their placement in so-called supported housing. They further warned that “... the **guardianship** orders [must be] reviewed as a matter of priority and that the capacity to act of all persons with disabilities, including those in any form of institutional setting [must be] restored.”<sup>248</sup>

The Validity Foundation and the Hungarian Civil Liberties Union also addressed the situation of **children with disabilities**, calling on Hungary to “[a]bolish the special education system for children with disabilities including ‘**developmental education**’<sup>249</sup> and provide them with inclusive education, including the provision of state-funded shadow teachers in

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<sup>245</sup> OHCHR (2022), [‘UN Disability Rights Committee issues findings on Hungary, Jamaica, Mexico, Switzerland and Venezuela’](#), Press release, 29 March 2022.

<sup>246</sup> Szerletics, A. (2022), [Paternalism vs. autonomy? Substitute and supported decision-making in England and Hungary](#), Hungarian Journal of Legal Studies, 62(1), 75-95.

<sup>247</sup> OHCHR (2022), [‘UN Disability Rights Committee issues findings on Hungary, Jamaica, Mexico, Switzerland and Venezuela’](#), Press release, 29 March 2022.

<sup>248</sup> UN Treaty Body Database (2022), [NGOs information to the UN Committee on the Rights of Persons with Disabilities with regard to the combined second and third periodic reports of Hungary](#), 26 Session (7 March 2022-25 March 2022) pp. 6, 8.

<sup>249</sup> In its September 2020 Inquiry Report, the CRPD Committee found that “[c]hildren requiring high levels of support receive special education, called ‘developmental education’. They are taught at home or in institutions, as provided for in Act CXC of 2011 on national public education (National Public Education Act). In practice, they are excluded from mainstream schools: one-third are enrolled in special schools and receive a maximum 20 hours of education per week, while those who are institutionalised receive up to six hours on average per week.” The Committee called on the Government to “[e]nd the segregation of persons with disabilities in education, particularly children requiring high levels of support, and adopt a strategy to implement inclusive education at all levels of education, in line with general comment No. 4 (2016) on the right to inclusive education.” See UN Treaty Body Database (2022), [NGOs information to the UN Committee on the Rights of Persons with Disabilities with regard to the combined second and third periodic reports of Hungary](#), 26 Session (7 March 2022-25 March 2022) p. 9.

mainstream schools”.<sup>250</sup> They warned that “measures intended to be supportive in the field of education are not to lead to a reduction in the quantity and quality of education and [should] not generate segregation of children with disabilities”.<sup>251</sup> Criticism of the practice was also reflected in the opinion of the court-appointed experts in the *Validity v. Topház* case,<sup>252</sup> where experts pointed out that the existing provisions of the Hungarian National Public Education Act and related regulations are insufficient to comply with Article 24(1) and (2) of the CRPD.<sup>253</sup> The experts also highlighted that “of the 30 pupils placed in the inspected institution, five attended segregated schools outside of the institution and 25 received so-called ‘developmental education’ in the institution.”<sup>254</sup>

As recently as 29 September 2022, new images were released by the national media, together with accounts of severe abuse of the children and adult residents of the Topház Special Care Facility for people with disabilities in the city of Göd, including the placement of a young boy in a straitjacket, and residents in slatted beds, physically restrained, and in sub-standard hygiene conditions.<sup>255</sup>

At the CRPD concluding session in March 2022, the Co-Rapporteur for Hungary, Robert George Martin, called on Hungary to “**stop using the medical model of disability** and start using the human rights model.”<sup>256</sup>

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<sup>250</sup> UN Treaty Body Database (2022), [NGOs information to the UN Committee on the Rights of Persons with Disabilities with regard to the combined second and third periodic reports of Hungary](#), 26 Session (7 March 2022-25 March 2022), p. 10.

<sup>251</sup> UN Treaty Body Database (2022), [NGOs information to the UN Committee on the Rights of Persons with Disabilities with regard to the combined second and third periodic reports of Hungary](#), 26 Session (7 March 2022-25 March 2022), p. 10.

<sup>252</sup> Hungary, Buda District Court (Case No. 7.P.20.346/2019/16), *Validity Foundation-Centre for the Rights of the Mentally Disabled v. Dunakeszi District Office of Pest County Government Office (Budakörnyéki Járásbíróság 7.P.20.346/2019/16., Validity Alapítvány-Központ a mentális sérültek jogaiért v. Pest Megyei Kormányhivatal Dunakeszi Járási Hivatala)*, 4 February 2020 (first instance decision); Budapest Environs Court of Appeal, 7.Pf.20.572/2021/4, *Validity Foundation-Centre for the Rights of the Mentally Disabled v. Dunakeszi District Office of the Pest County Government Office (Budapest Környéki Törvényszék mint másodfokú bíróság, 7.Pf.20.572/2021/4, Validity Alapítvány-Központ a mentális sérültek jogaiért v. Pest Megyei Kormányhivatal Dunakeszi Járási Hivatala)* 15 September 2021 (second instance decision).

<sup>253</sup> Article 24(1) and (2) CRPD provides for an inclusive education system at all levels and lifelong learning.

<sup>254</sup> UN Treaty Body Database (2022), [NGOs information to the UN Committee on the Rights of Persons with Disabilities with regard to the combined second and third periodic reports of Hungary](#), 26 Session (7 March 2022-25 March 2022) pp. 9-10.

<sup>255</sup> Szeretlekmagyarország (2022), ‘Shocking pictures: disabled people in straitjackets behind bars in Göd’ ([Megrázó képek: rácsok mögött, kényszerzubbonyban a gödi fogyatékkal élők](#)), 29 September 2022.

<sup>256</sup> UN (2022), [Experts of the Committee on the Rights of Persons with Disabilities Commend Hungary’s Recognition at the Constitutional Level of Sign Language, and Ask about Guardianship](#), Meeting summaries, 10 March 2022.

In the national jurisprudence, the CRPD was referenced six times in 2022, including in one Curia decision (see Annex 2).<sup>257</sup>

No legal or policy changes were identified specifically targeting the protection of people with disabilities fleeing the war in **Ukraine**.

## 8.2 CRPD monitoring at national level

There were no legal or institutional changes in the structure of national protection for people living with disabilities in 2022.

While the Information Portal of the Unified Disability Office (*Egységes Fogvatékosságügyi Információs Portál*)<sup>258</sup> provides information on relevant legislation, it does not cover the monitoring of the country's progress in disability rights.

Nevertheless, the CRPD review process concluded in March 2022 (see findings in Section 8.1) provides information from both the government and relevant civil society organisations, including the Validity Foundation (former Mental Disability Advocacy Centre), the premier watchdog in Hungary.<sup>259</sup>

The Directorate-General Responsible for Equal Treatment within the Office of the Commissioner for Fundamental Rights (equality body) handed down decisions in eight discrimination claims on the ground of disability in 2022,<sup>260</sup> as well as reports based on visits to specific institutions.<sup>261</sup>

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<sup>257</sup> Hungary, Curia, Case no.: Kfv.IV.37.139/2022/9, [Plaintiff 1 versus Észak-budapesti Tankerületi Központ](#) (Kúria, ügyszám: Kfv.IV.37.139/2022/9, *Felperes 1 versus Észak-budapesti Tankerületi Központ*).

<sup>258</sup> Unified Disability Office (2022), Information portal ([Egységes Fogvatékosságügyi Információs Portál](#)).

<sup>259</sup> UN Treaty Body Database, [Consideration of State Reports](#), CRPD - Convention on the Rights of Persons with Disabilities 26 Session (7 March 2022-25 March 2022).

<sup>260</sup> Hungary, Office of the Commissioner for Fundamental Rights (2022), [List of cases decided by the Directorate-General responsible for Equal Treatment in 2022](#).

<sup>261</sup> See for example, Hungary, Office of the Commissioner for Fundamental Rights (2022), The Commissioner for Fundamental Rights report in case AJB-1495/2022 (Previous: Case AJB-1055/2021) Investigation into the living conditions of persons with disabilities in a nursing home ([Az alapvető jogok biztosának JELENTÉSE az AJB-1495/2022. számú ügyben \(Előzmény: AJB-1055/2021. számú ügy\) Fogvatékossággal élő személyek életkörülményeinek vizsgálata egy ápológondozó otthonban](#)).

Further monitoring activities are underway, such as the national media authority running monthly checks to see whether subtitles and sign language interpreters were provided in line with the regulations for people with hearing disabilities, as reported by the government to the CRPD Committee.<sup>262</sup>

The National Disability Council (*Országos Fogyatékosügyi Tanács*)<sup>263</sup> is responsible for monitoring the implementation of the CRPD under Article 33(2) of the Convention, and provides advisory opinions to the government. In August 2022, Attila Fülöp, State Secretary for Care Policy and the President of the National Disability Council, convened the Council at the request of advocacy organisations to discuss state support for people living with disabilities in light of rising food, fuel and energy prices.<sup>264</sup> Considering the economic impact of Russia's war on Ukraine, it is important to note the vulnerability of the 457,000 people living with disabilities in Hungary (4.6 % of the population, according to the 2011 census<sup>265</sup>). The President of the National Federation of Associations of Disabled People<sup>266</sup> sent an open letter to the government in August 2022, drawing attention to the fact that the rise in energy prices threatens the security of people with disabilities and their families, the survival of the institutions that care for them, as well as the job security of those working there. It requested that the government immediately reviews the budget and reallocates resources to **support people with disability through the recession**.<sup>267</sup> As per the government decree of 21 July 2022, people with disabilities were exempt from the government's utility reduction measures,<sup>268</sup> and it was announced that disability benefits would not be increased.<sup>269</sup> In November 2022, it was reported that the care of 1,600 people living with disabilities may be at risk at the Association of Disabled Persons in Somogy County, which is unable to cover the six-fold increase in its energy bills. The Association reportedly alerted several

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<sup>262</sup> UN (2022), [Experts of the Committee on the Rights of Persons with Disabilities commend Hungary's recognition of sign language at Constitutional level, and ask about guardianship](#), Meeting summaries.

<sup>263</sup> Hungary, Government Decision no. 1065/2008 on the request of a body responsible for monitoring the implementation of the Convention on the Rights of Persons with Disabilities (1065/2008. (X. 14.) Korm. határozat a Fogyatékossgal élő személyek jogairól szóló egyezmény végrehajtását ellenőrző szerv felkéréséről).

<sup>264</sup> Hungary, National Association of Autistics (*Autisták Országos Szövetsége*) (2022), '[The National Disability Council met as a result of signals from national advocacy groups](#)' (*Az érdekvédelmi szervezetektől érkező jelzések hatására összeült az Országos Fogyatékossgügyi Tanács*), 31 August 2022.

<sup>265</sup> Hungary, Central Statistical Bureau (2013), [2011 Census – National Data](#).

<sup>266</sup> See the website at [National Federation of Associations of Disabled People](#) (*Mozgáskorlátozottak Egyesületeinek Országos Szövetsége*) (MEOSZ).

<sup>267</sup> Penzcentrum (2022), 'Immediate utility protection is requested: the security of 600,000 people and their families is threatened by the utility increase' ([Azonnali rezsivédelmet kérnek: 600 ezer ember és családja létbiztonságát fenyegeti a rezsiemelés](#)), 17 August 2022.

<sup>268</sup> MEOSZ (2022), '[MEOSZ has achieved that people with disabilities receive overhead protection](#)' (*A MEOSZ elérte, hogy rezsivédelmet kapnak a fogyatékossgal élő emberek*), 21 July 2022.

<sup>269</sup> Index (2022), '[Now they can't raise disability benefits](#)' (*Most nem tudnak emelni a fogyatékossgal élők ellátásán*), 29 September 2022.

ministries to the problem, but received no response.<sup>270</sup> Six weeks later, the Association confirmed that the problem prevails, and the situation is increasingly acute – with no funding possibilities or state support on the horizon for 2023.<sup>271</sup>

In the context of **labour market integration** of people with disabilities, in the Annex to the National Reform Programme, Hungary reported that it recalled HUF 19 billion (nearly € 45 million) of EU Cohesion Funds for this purpose.<sup>272</sup> During 2021, 1,800 people with a decreased capacity to work due to a disability were employed, and occupational rehabilitation services were provided. No national resources supported this project.

Significantly, Hungary reported the **deinstitutionalisation** of 1,395 beds<sup>273</sup>, compared to the 2021-2022 objective of 2,132 deinstitutionalised beds. In the context of the COVID-19 pandemic, various civil society organisations<sup>274</sup> had advocated for emergency deinstitutionalisation and argued that the placement of people living with disabilities in residential institutions in numerous occasions constituted torture.<sup>275</sup>

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<sup>270</sup> RTL News (2022), 'Not a single ministry offered a response to the bankrupt organisation that cares for 1,600 people with disabilities' ([Egy minisztérium sem méltatta válaszra az 1600 fogyatékossggal élet gondozó, rezsiválságba került szervezetet](#)), 6 November 2022.

<sup>271</sup> Phone interview with the Director of Somogy County Association of Disabled People, 3 January 2023.

<sup>272</sup> European Commission (2022), [Annex to the National Reform Programme](#), Part 1. Compliance with country specific recommendations, sustainable development and social pillar indicators, Measure: Subsidy for persons with disabilities, European Semester: National Reform Programmes and Stability/Convergence Programmes, Hungary, p. 39.

<sup>273</sup> European Commission (2022), [Annex to the National Reform Programme](#), Part 1. Compliance with country specific recommendations, sustainable development and social pillar indicators, Measure: Deinstitutionalisation of people with disabilities from care/nursing homes, European Semester: National Reform Programmes and Stability/Convergence Programmes, Hungary, p. 49.

<sup>274</sup> Validity Foundation (2022), [Deinstitutionalisation and Justice seminar](#) in the European Parliament, 20-22 June 2022.

<sup>275</sup> Chávez Penillas, F., Fiala Butora, J. and Nikolaidis, G. (2021), [Legal strategies to pursue emergency deinstitutionalisation during the pandemic](#).

## Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socioeconomic status, health status and physical appearance, such as awareness-raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness-raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body
<b>Title (original language)</b>	Szavazz érvénytelenül!
<b>Title (EN)</b>	Spoil the Ballot
<b>Organisation (original language)</b>	Háttér Társaság, Amnesty International Magyarország
<b>Organisation (EN)</b>	Háttér Society, Amnesty International Hungary <sup>276</sup>
<b>Government/civil society</b>	Civil society
<b>Funding body</b>	No specific funding
<b>Reference (including URL where available)</b>	<a href="https://www.ervenytelenul.hu/">https://www.ervenytelenul.hu/</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	From January 2022 until the referendum (3 April 2022)
<b>Type of initiative</b>	Campaign

<sup>276</sup> See [list of further participating organisations](#).



<b>Main target group</b>	Hungarian electorate
<b>Indicate level of implementation: local/regional/national</b>	National
<b>Brief description (max. 1,000 chars)</b>	The campaign aimed to persuade voters to spoil their ballot on the four-question referendum initiated by the government on the availability of sex-related and gender-related content to minors
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	Showing individual stories, civil engagement and coalition-building to counter anti-LGBTIQ narratives
<b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b>	While the campaign focused on a one-time event, it showed the success of coalition-building and raising awareness, providing important experience to the participating entities
<b>Give reasons why you consider the practice to have concrete measurable impact</b>	While valid votes gave an overwhelming majority to the answer preferred by the government ("No", 92-96 % of all valid votes), the number of invalid votes was high (approx. 21 % of all votes cast). When abstentions (31.5 % of all eligible voters) were considered, the ratio of valid votes fell below 50 % (approx. 47 %), making the results legally invalid <sup>277</sup>
<b>Give reasons why you consider the practice transferable to other settings</b>	Political forces that seek to exploit gender-related human rights questions are present in other Member States and if they succeed in holding a referendum with manipulative questions, civil campaigning can be decisive. The fact that the campaign was selected for the finals for the Václav Havel Human Rights Prize of the Council of Europe <sup>278</sup> can be seen as an acknowledgment of its European relevance.

<sup>277</sup> Hungary, Article 8 (4) Fundamental Law of Hungary: "A national referendum shall be valid if more than half of all voters have cast valid votes".

<sup>278</sup> The prize was won by imprisoned Russian opposition leader Vladimir Kara-Murza; See Parliamentary Assembly of the Council of Europe (2022), [Václav Havel Human Rights Prize. See also](#) Parliamentary Assembly of the Council of Europe (2022) [Three candidates shortlisted for the 2022 Václav Havel Prize](#), 6 September 2022.

<b>and/or Member States</b>	
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in its design, planning, evaluation, review assessment and implementation</b>	The campaign was organised by a coalition of NGOs and used video spots featuring individual stories, putting a human face to the questions <sup>279</sup>
<b>Explain, if applicable, how the practice provides for review and assessment</b>	Direct assessment was not part of the project, given the nature of the campaign. However, the results of the referendum, the behaviour of voters (especially opposition voters) and polling of the populace (showing high levels of acceptance of LGBTIQ <sup>280</sup> ) allow the organisers to assess the impact of their campaign

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> <b>Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice on participation and engagement of equality bodies and civil society organisations in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerance</b>
<b>Title (original language)</b>	Fair Play football Roadshow Bajnokság
<b>Title (EN)</b>	Fair Play football Roadshow
<b>Organisation (original language)</b>	Oltalom Sportegyesület

<sup>279</sup> Amnesty International Hungary (2022), 'The 2 Xs are important: Cast an invalid vote at the April 3 referendum' ([Fontos a 2X: népszavazz érvénytelenül április 3-án!](#)), YouTube, 8 April 2022.

<sup>280</sup> Amnesty International Hungary (2022), 'Gay acceptance in Hungary at an all-time high' ([Történelmi csúcson a melegek elfogadottsága Magyarországon](#)), 13 August 2021.

<b>Organisation (EN)</b>	Protection Sport Association
<b>Government/civil society</b>	Civil society
<b>Funding body</b>	
<b>Reference (including URL where available)</b>	<a href="http://utcaifoci.hu/fair-play-football/miert-fair-play/">http://utcaifoci.hu/fair-play-football/miert-fair-play/</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	Ongoing since 2012
<b>Type of initiative</b>	Civil society initiative
<b>Main target group</b>	groups from different social backgrounds, often in perceived or real conflict with each other
<b>Indicate level of implementation: local/regional/national</b>	local
<b>Brief description (max. 1,000 chars)</b>	<p>A special football tournament aimed at bringing conflicting social groups together for the matches. Each football game consists of 3 halves: in the first half the two teams agree on the rules, in the second half the match itself takes place, and in the third half they jointly analyse the game and decide how many fair plays are awarded to which team. The referees are replaced by mediators who do not intervene in the course of the game. The players indicate any irregularities by raising their hands, clarify them among themselves, and agree on possible sanctions. Before the start of a tournament, the fair play mediators hold a training session for 2 people delegated from the teams, during which they clarify the rules and the course of the tournament. The task of the team members participating here is to pass on the fair play spirit and attitude to their peers. In 2022, 16 roadshows were held across Hungary.</p> <p>The method was specifically developed - to tackle social conflicts, stereotypes and discrimination</p>

	<ul style="list-style-type: none"> <li>- for the inclusion and recreation of disengaged, disadvantaged groups</li> <li>- to support the integration of excluded groups</li> <li>- to promote dialogue and cooperation between groups in conflict with each other</li> </ul>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	<ul style="list-style-type: none"> <li>- organisation of popular activities that the participants already like to engage in and incorporate the integration/sensitisation element as part of that</li> <li>- using activities that are known to alleviate stress and conflict, like sports, and teach conflict resolution and participation in the assessment of the problems and the identification of the solution as part of it</li> <li>- employing a positive attitude to the problem and tackling intolerance by allowing participants to discover what is shared and learn to work together</li> <li>- amplifying the impact by engaging some individuals, here the players, via activities (matches) that raising the awareness and increases the participation of their wider social networks (supporters)</li> </ul>
<b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b>	<ul style="list-style-type: none"> <li>- relatively low costs</li> <li>- simple methodology</li> <li>- no specific material, technical etc. requirements</li> </ul>
<b>Give reasons why you consider the practice to have concrete measurable impact</b>	<p>These matches have successfully involved a large number of youth, bringing together people from segments of the society that would rarely spend time together otherwise. Those recently also include refugee athletes. They managed to establish closer, longer-term cooperation with several of the disadvantaged local teams.</p>
<b>Give reasons why you consider the practice transferable to other settings and/or Member States</b>	<p>The methodology is not specific to the local or country context and can be implemented in different cultural, linguistic etc. settings</p>
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in its design, planning,</b>	<p>N/A</p>

<b>evaluation, review assessment and implementation</b>	
<b>Explain, if applicable, how the practice provides for review and assessment</b>	N/A

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the two topics addressed in the chapter: implementation of national action plans; and legal or policy developments addressing Roma/Traveller equality and inclusion
<b>Title (original language)</b>	EDUA
<b>Title (EN)</b>	EDUA
<b>Organisation (original language)</b>	Civil Kollégium Alapítvány, Civil Közoktatási Platform
<b>Organisation (EN)</b>	Civil College Foundation, Civil Platform for Public Education
<b>Government/civil society</b>	Civil society
<b>Funding body</b>	United Way Hungary
<b>Reference (including URL where available)</b>	<a href="https://uainfo.hu/2022/08/22/ukrajnabol-menekult-gyerekek-a-magyar-kozoktatasban/">https://uainfo.hu/2022/08/22/ukrajnabol-menekult-gyerekek-a-magyar-kozoktatasban/</a>
<b>Indicate the start date of the promising practice and the finishing</b>	August 2022-January 2023

<b>date if it has ceased to exist</b>	
<b>Type of initiative</b>	Information campaign for people working with refugee children, including parents, teachers and supporters
<b>Main target group</b>	Parents, teachers, and supporters working to educate refugee children
<b>Indicate level of implementation: local/regional/national</b>	National
<b>Brief description (max. 1,000 chars)</b>	<p>The project seeks to create a platform for community organising, interest representation, and collecting/distributing information in an easy-to-find manner to help the education of refugee children, including Roma children fleeing the war in Ukraine<sup>281</sup></p> <p>More specifically, it includes the following:</p> <ul style="list-style-type: none"> <li>Creation of an information page in Hungarian, Ukrainian, and Russian</li> <li>Establishing online groups (on social media) for parents and teachers, respectively</li> <li>Organising an international conference to share experiences (with simultaneous interpretation in Ukrainian)</li> <li>Surveys</li> <li>Developing policy recommendations</li> </ul>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The goals and methods of the campaign, including the combination of information-sharing and capacity-building for representation, are transferable elements
<b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b>	While the project has a specific end date (January 2023), the networks and knowledge will have an impact well beyond the conclusion of the project, creating the potential for developing policies and lobbying. The focus on community-building and autonomous development seeks to create self-sustaining structures that outlive the project

<sup>281</sup> Civil College Foundation (*Civil Kollégium Alapítvány*) (2022), What will happen to the Ukrainian refugee children in Hungarian public education? [\(Mi lesz az ukrán menekült gyerekekkel a magyar közoktatásban?\)](#), 2 September 2022.

<p><b>Give reasons why you consider the practice to have concrete measurable impact</b></p>	<p>Research and collection of information have easily measurable outcomes, while bringing together various stakeholders to share experiences can have less visible but equally sustainable impacts. The impact of the goal on interest representation can only be assessed in the long term, but the establishment of dedicated forums, the adoption of policy recommendations supported by stakeholders, and the eventual impact on policy-making are all potentially measurable impacts</p>
<p><b>Give reasons why you consider the practice transferable to other settings and/or Member States?</b></p>	<p>The combination of knowledge-sharing, community-organising and building representation in the field of education for refugee children are all elements that can be implemented in all Member States that see the influx of refugees in larger numbers, with civil actors often moving more quickly than State institutions</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>The conference format allows in particular to bring together stakeholders. Educational institutions can share experiences with decision-makers. Small-group discussions facilitate sharing perspectives from parents and helpers. The project places special emphasis on involving communities and, in particular, vulnerable groups in decision making.<sup>282</sup></p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>The project includes surveys in Hungarian and Ukrainian about experiences with the education of refugee children.<sup>283</sup></p>

<sup>282</sup> Civil College Foundation (*Civil Kollégium Alapítvány*) (2022), What will happen to the Ukrainian refugee children in Hungarian public education? ([Mi lesz az ukrán menekült gyerekekkel a magyar közoktatásban?](#)), 2 September 2022.

<sup>283</sup> EDUA (2022), Survey of Ukrainian refugee children, their parents, teachers and carers' ([Felmérés ukrán menekült gyermekek, szüleik, pedagógusaik és segítők körében](#)), 20 August 2022. Updated on 12 December 2022: [Survey among teachers of Ukrainian refugees](#) and [Survey among Ukrainian refugee parents](#).

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide one example of a promising practice related to the topics addressed in the chapter, i.e. data protection, and/or AI systems
<b>Title (original language)</b>	MI Kihívás
<b>Title (EN)</b>	AI Challenge
<b>Organisation (original language)</b>	Mesterséges Intelligencia Koalíció
<b>Organisation (EN)</b>	AI Coalition
<b>Government/civil society</b>	Government
<b>Funding body</b>	Ministry for Technology and Industry ( <i>Technológiai és Ipari Minisztérium</i> )
<b>Reference (including URL where available)</b>	<a href="https://ai-hungary.com/hu/tartalom/mi-akademia/ertsd-meg">https://ai-hungary.com/hu/tartalom/mi-akademia/ertsd-meg</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	February 2022 (ongoing)
<b>Type of initiative</b>	Information activities
<b>Main target group</b>	Citizens and businesses
<b>Indicate level of implementation: local/regional/national</b>	National
<b>Brief description (max. 1,000 chars)</b>	The AI Challenge consists of several information activities: an e-learning course on AI, a YouTube channel dedicated to AI-related matters and exhibits across the country. The AI Challenge aims to provide information on the possibilities of using AI technology, the ethical concerns behind the application of AI, and the responsible use of AI. The e-learning course consists of interactive content and real-life scenarios that can be studied in two-threes hours
<b>Highlight any element of the actions that is</b>	The AI Challenge provides comprehensive and up-to-date information to citizens and businesses free of charge and in formats that are easy to access. The YouTube channel dedicated to AI-related content and the e-learning



<b>transferable (max. 500 chars)</b>	course may reach more people than other initiatives, given their ease of use. As the AI Challenge approaches the questions of AI from a global perspective, most of the content is transferable
<b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b>	The AI Coalition is determined to maintain the information channels established under the initiative. Their goal is to make newer and newer content, tailored to developments in the world of AI. The lack of an exact end date for the project suggests that it is a long-term initiative
<b>Give reasons why you consider the practice to have concrete measurable impact</b>	Participants, those watching the content in the dedicated YouTube channel and those participating in the e-learning programme can gain more knowledge on the challenges of the application of AI and can tailor their behaviours to identify potential dangers that may jeopardise their privacy
<b>Give reasons why you consider the practice transferable to other settings and/or Member States</b>	As the AI Challenge approaches the questions of AI from a global perspective, most of the content is transferable to other Member States. The actions under the initiative grant free access to anybody, especially through the online resources, and most of the content can be used in other Member States once it has been translated
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in its design, planning, evaluation, review assessment and implementation</b>	Not applicable
<b>Explain, if applicable, how the practice provides for review and assessment</b>	The e-learning module of the AI challenge provides for immediate feedback to users through an assessment of the test that concludes the e-learning course. The assessment shows the correct answers to the test and provides for a short explanation on why that particular answer was the correct one.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide a promising practice for the related topics addressed in the chapter (i.e. impact of poverty and exclusion on children, and children and justice)
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s rights and judicial independence</b> Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. <b>Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women</b>
<b>Title (original language)</b>	<i>A Várva Várt Alapítvány (VVA) és a Miskolci Áldozatsegítő Központ (MÁSK) együttműködése a krízishelyzetben lévő kismamák támogatására</i>
<b>Title (EN)</b>	Cooperation between the Várva Várt Foundation and the Miskolc Victim Support Centre for the support of pregnant women in crisis situations, including women victims of crime
<b>Organisation (original language)</b>	<i>Várva Várt Alapítvány Miskolci Áldozatsegítő Központ</i>
<b>Organisation (EN)</b>	Várva Várt Foundation (NGO) Miskolc Victim Support Centre (administrative organ)
<b>Government/civil society</b>	Government and civil
<b>Funding body</b>	The Várva Várt Foundation’s operation is based on the 1% personal income tax offerings made by citizens and private donations. The operation of the foundation is also made possible by the assistance of a network of volunteers who are active in all regions of the country. <sup>284</sup>  Besides, state-financed subsidies and services are provided by the victim support system.
<b>Reference (including URL where available)</b>	<a href="https://www.varvavart.hu/munkank/">https://www.varvavart.hu/munkank/</a>  Podcast describing the ways of cooperation: ÁSK (2022), <a href="#">There is assistance available for pregnant women in crisis situations</a> ( <i>A krízishelyzetbe került várandós kismamák számára is van segítség</i> ), 27 June 2022
<b>Indicate the start date of the</b>	Ongoing

<sup>284</sup> Information provided by the Várva Várt Foundation via telephone, 19 December 2022.

<b>promising practice and the finishing date if it has ceased to exist</b>	The cooperation between the Várva Várt Foundation and the Miskolc Victim Support Centre is based on a cooperation agreement concluded in 2020. <sup>285</sup>
<b>Type of initiative</b>	Joint efforts of an NGO and an administrative body to provide specialised assistance to a specific, vulnerable group of victims
<b>Main target group</b>	Pregnant women in crisis situations
<b>Indicate level of implementation: local/regional/national</b>	The Várva Várt Foundation has a nationwide outreach. <sup>286</sup>
<b>Brief description (max. 1,000 chars)</b>	<ul style="list-style-type: none"> <li>- The Várva Várt Foundation has a nationwide outreach, the country is divided into four main regions, three comprising six counties respectively, and Budapest. These regions are coordinated by the region managers.<sup>287</sup></li> <li>- Cooperation between the Várva Várt Foundation and the Miskolc Victim Support Centre</li> <li>- If pregnant victims of crime in crisis situations turn to the Miskolc Victim Support Centre, the Miskolc Victim Support Centre contacts the Várva Várt Foundation, which can support the women throughout their pregnancy. If the pregnant victims of crime contact the Várva Várt Foundation first, the Foundation provides information on the victim support services available</li> <li>- Várva Várt Foundation may provide complex and individualised support in many ways: provision of information, donation of accessories, psychological, mental health support, medical support,</li> <li>- The Várva Várt Foundation facilitates their clients' contact with family support centres/victim support centre/guardianship authority, etc. If necessary, they may alert the authorities of crisis situations, accompany their clients to the authorities and they may also give assistance in arranging open adoption.</li> </ul>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	<ul style="list-style-type: none"> <li>- Cooperation of civil society actors (NGOs) and administrative bodies</li> <li>- Mutual provision of information</li> <li>- Support is provided in a complex and individualised manner, adapted to the specific needs of a particularly vulnerable group of crime victims</li> <li>- Specific material, psychological support provided for pregnant women victims of crime</li> <li>- Assistance in adoption</li> <li>- Ongoing contact with relevant authorities</li> </ul>

<sup>285</sup> Information provided by the Várva Várt Foundation via telephone, 19 December 2022.

<sup>286</sup><sup>286</sup> Information provided by the Várva Várt Foundation via telephone, 19 December 2022.

<sup>287</sup><sup>287</sup> Information provided by the Várva Várt Foundation via telephone, 19 December 2022.

<b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b>	The ongoing cooperation between the Várva Várt Foundation and the Miskolc Victim Support Centre does not necessitate further external resources other than donations offered for the Várva Várt Foundation by the general public and the state-financed services of the Miskolc Victim Support Centre.
<b>Give reasons why you consider the practice to have concrete measurable impact</b>	Pregnant women victims of violence are a specifically vulnerable group of crime victims and need extra care and attention. Each year, the Várva Várt Foundation provides assistance to around 100 pregnant women in crisis situations, including crime victims. For this vulnerable group, timely and prompt access to assistance may be vital
<b>Give reasons why you consider the practice transferable to other settings and/or Member States</b>	There are no specific circumstances that would preclude the transferability of the promising practice
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in its design, planning, evaluation, review assessment and implementation</b>	There is ongoing coordination between the Várva Várt Foundation and the Miskolc Victim Support Centre. The assistance provided is always adapted to the specific needs of the person concerned and may vary considerably according to their needs
<b>Explain, if applicable, how the practice provides for review and assessment</b>	Not applicable

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one example of a promising practice of national monitoring bodies (e.g. a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding
<b>Title (original language)</b>	SUHANJ napközi
<b>Title (EN)</b>	SUHANJ Day Care Centre
<b>Organisation (original language)</b>	SUHANJ Alapítvány
<b>Organisation (EN)</b>	SUHANJ Foundation
<b>Government/civil society</b>	Civil society organisation
<b>Funding body</b>	Financial support from companies and individuals, as well as material donations and donations of hot meals
<b>Reference (including URL where available)</b>	<a href="https://suhanj.hu/">https://suhanj.hu/</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	14 March 2022-31 August 2022
<b>Type of initiative</b>	
<b>Main target group</b>	Children aged 2-14 from families fleeing the war in Ukraine
<b>Indicate level of implementation: local/regional/national</b>	Local level, in the capital city of Budapest
<b>Brief description (max. 1000 chars)</b>	Via Hungary's only accessible, integrated gym, the SUHANJ! Foundation aims to share the joy of movement with people with disabilities. Prompted by the war in Ukraine, it set up a day care centre for young children of

	<p>families fleeing the war, whether they were in transit through Hungary or applying for a residence permit in the country. With the help of a Ukrainian-speaking staff member, and volunteers, the day care centre welcomed both able-bodied and disabled children from Ukraine. The children were supported via recreational, sports and creative activities, and were given three meals a day. A maximum of 12 children, aged 2-14 were welcomed on weekdays from 10:00 to 15:00. Essentially, the project helped disabled and able-bodied children in an integrated manner, ensuring both specialised facilities and support for people with intersectional vulnerabilities, such as children with disabilities fleeing the war</p>
<p><b>Highlight any element of the actions that is transferable (max. 500 chars)</b></p>	<ul style="list-style-type: none"> <li>- Complementing the activities of large refugee support organisation by providing the type of specialised support in which the organisation is experienced (leisure, sports, creative programmes)</li> <li>- Finding a supportive task that suits the organisation's prior experience (e.g. SUHANJ! had previously run an integrated summer camp for children)</li> <li>- Creative use of the organisation's facilities for something other than its regular purposes</li> <li>- Quickly reallocating existing resources, support and volunteer networks in response to a crisis</li> <li>- Cooperation with other aid organisations, refugee shelters</li> </ul>
<p><b>Give reasons why you consider the practice sustainable (as opposed to 'one-off activities')</b></p>	<ul style="list-style-type: none"> <li>- Use of existing infrastructure</li> <li>- Use of the spare capacity of a continuously operating facility</li> <li>- Using an established volunteer community</li> <li>- Relatively low costs, with the possibility for donors to donate goods as well as financial support</li> </ul>
<p><b>Give reasons why you consider the practice to have concrete measurable impact</b></p>	<p>The first five weeks of the project (during the first wave of refugee inflow to Hungary) was the busiest, during which children spent a total of 761 hours at the day care centre, and the organisation counted 461 volunteer hours</p> <p>During the 5.5 months of the project, the organisation helped a total of 48 children and their families. The children spent a total of 2,086 hours at the centre. 72 volunteers worked a total of 1,042 hours.</p>
<p><b>Give reasons why you consider the practice transferable to other settings and/or Member States</b></p>	<p>Helping refugees is not the main profile of the organisation, which is specialised in empowering people living with disabilities. However, its unique facility (an accessible gym) allowed it to step in and lend support at a time of crisis. It relied on a network of volunteers built up during earlier years. The project "only" required the use of existing capacity and did not need to be built from scratch. It did not set out to solve the whole problem but took ownership of its area of expertise, i.e. integrated support of people living with disabilities</p>

<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in its design, planning, evaluation, review assessment and implementation</b>	Not applicable
<b>Explain, if applicable, how the practice provides for review and assessment</b>	Not applicable

## Annex 2 – Case-law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one High Court decision addressing discrimination against LGBTIQ people or on the grounds of socioeconomic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report
<b>Decision date</b>	13 June 2022
<b>Reference details</b>	Pécs Regional Court of Appeal ( <i>Pécsi Ítéltábla</i> ), <a href="#">Judgment No. III.Pf.20.039/2022/4/I</a>
<b>Key facts of the case (max. 500 chars)</b>	A newspaper article covered the lawsuit of the Budapest-Capital Regional Court of Appeal on a children’s book depicting non-traditional families, where comments had labelled the publisher of the book, Labrisz Lesbian Association, as paedophile. The article stated that the Court argued that the publisher could be labelled paedophile, citing Prime Minister Viktor Orbán, who, in a speech, had claimed a connection between homosexuality and paedophilia. This coverage was challenged and the Pécs Regional Court of Appeal confirmed that a correction had to be published
<b>Main reasoning/argumentation (max. 500 chars)</b>	The Court found that the newspaper’s depiction of the reasoning of the Budapest-Capital Court was misleading as it misrepresented the Court’s arguments. It was not based on the Prime Minister’s linking homosexuality and paedophilia, and it did not find that, like paedophilia, the children’s book hurt children. Readers were not informed about the key element of the judgment, distorting its main findings
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	It can be unlawful to publish true facts if they are presented in a misleading way. The Court specified that this can include the arbitrary grouping, selection, combination, or singling-out of facts if the statement becomes misleading as a result. A statement can become misleading even if all elements are factual but a key element necessary for understanding is omitted
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	The newspaper was ordered to publish a corrective statement. In similar cases, omissions in media outlets also led to successful legal challenges
<b>Key quotation in original language and translated into</b>	”sajtó-helyreigazításnak nem csak valótlan tény állítása vagy híresztelése, hanem való tények hamis színben való feltüntetése esetén is helye van. A jogsértés utóbbi módja állapítható meg



**English with reference details (max. 500 chars)**

abban az esetben, ha a közlés az egyes adatok önkényes csoportosítása, összeválogatása, rendezése, kiragadása folytán válik megtévesztővé. A hamis színben feltüntetést jelentheti, amikor a közlemény valamennyi állítása valós, azonban egyben hiányos is, és a sérelem az információk alapos megértéséhez szükséges valós tények elhallgatásán alapul. [...] Kétségtelen, hogy elhangzott a személyiségi jogi perben hozott ítélet indokolása során, hogy a miniszterelnök is kapcsolatot lát a homoszexualitás és a pedofília között, valamint, hogy a pedofíliához hasonlóan a Meseország mindenkié mesekönyv is bántja a gyerekeket. A másodfokú bíróság azonban e részletekre a jogalkalmazási kötelezettségét teljesítve, az írás elemzése, ismertetése körében – és nem saját álláspontjaként – tért ki. Az alperes által közzétett tudósítás sugalmazásával ellentétben a felperes ítéletének indokolásából nem következik, hogy a másodfokú bíróság azonosult volna a per tárgyává tett közlés tartalmával. A jóhírnév megsértése miatt indított per alperesére vonatkoztatva állapította meg a felperes, hogy a különböző álláspontok közül a miniszterelnök álláspontjával ért egyet, egyebekben is a cikkíró gondolatmenetét követte, hogy állást foglalhasson a tényállítás vagy véleménynyilvánítás kérdésében. [...] Sem logikailag, sem szövegtanilag nem igazolható az a fellebbezésben is hangoztatott következtetés, hogy amennyiben a Magyar Nemzet cikk szerzője a miniszterelnökkel ért egyet, akkor a felperes a miniszterelnök álláspontját tekinti tolerálható véleménynek (ami lényegében a perbeli írás tömör, de kontroll és reflexió nélküli összefoglalása).”

“the publication of a corrective statement is not only necessary in the case of false statements or rumours, but also in the case of misrepresentation of true facts. The latter type of violation may be established where the statement becomes misleading as a result of the arbitrary grouping, aggregation, sorting, or extraction of certain data. Misrepresentation may occur where all the statements in the communication are true but also incomplete and the harm is based on the omission of true facts necessary for a thorough understanding of the information. [...] It was undeniably stated in the judicial reasoning in the personality rights case that the Prime Minister also sees a link between homosexuality and paedophilia and that, like paedophilia, the storybook ‘A Fairytale for Everyone’ harms children. However, the Court of Appeal referred to these details in the course of its duty to apply the law, in the context of its analysis and presentation of the text, and not as part of its own opinion. Contrary to the suggestion in the report published by the defendant, it does not follow from the judgment that the Court of second instance identified with the content of the said communication. With regard to the defendant in the action for defamation, the applicant states that, among the various positions, it agrees with the position of the Prime Minister and, moreover, that it followed the line of reasoning of the author of the article in order to be able to take a position on the question of the statement of facts or of the expression of an opinion. [...] Neither logically nor textually can the conclusion, also expressed in the appeal, be

	<p>justified that if the author of the Magyar Nemzet article agrees with the Prime Minister, then the plaintiff considers the Prime Minister's position to be the opinion to be tolerated (which is essentially a concise summary of the litigation writing without control and reflection)."</p> <p>paras. [27], [30], [31]</p>
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<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> <b>Please provide the most relevant <u>High Court</u> decision on the application of <u>either</u> the <u>Racial Equality Directive</u> or the <u>Framework Decision on Racism and Xenophobia</u>, addressing racism, xenophobia, and other forms of intolerance more generally</b>
<b>Decision date</b>	16 June 2022
<b>Reference details</b>	Supreme Court ( <i>Kúria</i> ), as the last instance court, Case <a href="#">Kfv.V.37.295/2022/8</a>
<b>Key facts of the case (max. 500 chars)</b>	In April 2018, the applicant filed a complaint with the Equal Treatment Authority, stating that the government and the Cabinet Office of the Prime Minister (which is responsible for the implementation of government communication) had displayed a large number of posters throughout the country, showing asylum seekers with dark skin, mostly of Arab ethnic origin, marching behind a STOP sign. The applicant claimed that in displaying the posters, the government and the Cabinet Office of the Prime Minister committed harassment within the meaning of Article 10(1) of Act CXXV of 2003 on Equal Treatment and violated the right to equal treatment of persons of Middle Eastern, South Asian, North African, Arab ethnic origin, or those perceived to be of darker skin colour than the majority of Hungarians residing in Hungary
<b>Main reasoning/argumentation (max. 500 chars)</b>	After the case had been referred back to both the Metropolitan Court and the Equal Treatment Authority multiple times due to procedural shortcomings and their continued insistence on lack of competence, the Authority ruled on the merits, finding that the posters did not constitute harassment as they did not violate human dignity, did not refer to persons with protected characteristics, and their purpose or effect was not to create a hostile, intimidating or degrading environment. The ruling related to the Prime Minister's Cabinet Office (as an independent budgetary organ) but not the government

	<p>The plaintiff appealed to the Metropolitan Court on both the merits and the fact that the Authority declined competence <i>vis-à-vis</i> the government. The Court quashed the decision on its merits on the ground that the examination and the decision were not coherent. It ruled that the Authority has competence in respect of both the Cabinet Office and the government and required the Authority to conduct a new procedure examining the application on its merits against both</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The central question of the case before the Supreme Court was whether the Equal Treatment Authority was competent to rule over a government policy. In practical terms, this means determining whether the Equal Treatment Act, the main transposing act of the Racial Equality Directive (RED), applies to the government</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Supreme Court overruled the Metropolitan Court's finding that the Authority has competence over the government, on the ground that the former only examined the question of whether the government falls under the exception list provided in the Equal Treatment Act. However, it failed to examine whether the government falls under the personal scope of the Equal Treatment Act within the meaning of Article 4. It was therefore unlawful to send back the case to the Authority with the instruction to rule in respect of government. The Supreme Court sent the case back to the Metropolitan Court for a new decision, requiring that the latter not set aside the merits of the Supreme Court ruling. The Supreme Court also overruled the findings of the Metropolitan Court on the merits and upheld the ruling of the Authority, which found no violation of equal treatment</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>“Ebből következően a hivatkozott ítélet az Ebktv. 4. §-ában szabályozott személyi hatály kérdésében nem foglalt állást, nem vizsgálta ítéletében az elsőfokú bíróság, hogy a bepanaszoltak az Ebktv. 4. §-ában foglaltak alapján az Ebktv. személyi hatálya alá tartoznak-e, e körben az ítélet indokolást nem tartalmaz. Nem tekinthető ilyennek a hivatkozott ítélet [17] bekezdésében foglalt az a megállapítás sem, hogy a plakát kihelyezése nem közhatalmi döntés, hanem az Ebktv. 4. §-ának hatálya alá tartozó eljárás, illetve intézkedés, amelynek során az egyenlő bánásmód követelményét meg kell tartani. Az Ebktv. 4. §-ára e helyütt a hivatkozott ítélet nem a személyi hatály, hanem a már fentiekben kifejtettek alapján a tárgyi hatály tekintetében tartalmaz értékelést.”</p> <p>“As a result, the judgment referred to did not take a position on the question of the personal scope regulated by Article 4 of the Ebktv, the Court of first instance did not examine in its judgment whether the complainants fall within the personal scope of the Ebktv on the basis of Article 4 of the Ebktv. Not does the finding in paragraph [17] of that judgment that the display of the poster is not a decision of public authority, but a procedure or measure falling within the scope of Article 4 of</p>

	the Ebktv constitute such examination. The judgment does not assess the scope of Article 4 of the Ebktv in terms of its personal scope, but in terms of its material scope, as explained above”
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> <b>Please provide the most relevant High Court decision addressing violations of fundamental rights of Roma and Travellers</b>
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION</b> <b>Please provide the most relevant High Court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS)</b>
<b>Decision date</b>	12 January 2022
<b>Reference details</b>	11.K.700.918/2021. Debrecen Court ( <i>Debreceni Törvényszék</i> )
<b>Key facts of the case (max. 500 chars)</b>	The plaintiffs were denied entry by the border police in March 2021 based on an SIS alert entered into the database in December 2020 by the Hungarian authorities because the plaintiffs used false diplomatic (Organisation for Security and Co-operation in Europe (OSCE)) cards. The plaintiffs claimed they had no knowledge of the alert on the database. As they had no available address, the decision on the SIS alert was communicated by way of public announcement on the homepage of the Directorate-General for Aliens Policing ( <i>Országos Idegenrendészeti Főigazgatóság</i> ). <sup>288</sup> The plaintiffs challenged both the SIS alert and the prohibition on their entry

<sup>288</sup> See homepage at [Directorate-General for Aliens Policing](#) (*Országos Idegenrendészeti Főigazgatóság*).

<b>Main reasoning/argumentation (max. 500 chars)</b>	<p>The Court refused to examine the lawfulness of the entry of the SIS alert into the database, establishing that the plaintiffs need to challenge the SIS entry in the database separately with the Directorate-General for Aliens Policing. The Court also established that its competence to revise the decision of the authorities was confined to questions related to the correct application of the law and that in the case of a SIS alert, the authorities have no discretion, they are obliged to prohibit the entry of the person concerned and may not examine the lawfulness of the SIS alert or the authenticity of related data</p>
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	<ul style="list-style-type: none"> <li>- Communication of decisions on initiating a SIS alert against a person</li> <li>- Right to appeal in the case of a public announcement of a decision on initiating a SIS alert in the database</li> <li>- Competence of the border police in the case of an existing SIS alert to overrule that alert or examine its lawfulness</li> <li>- Competence of the court to supervise the related decisions of the authorities</li> </ul>
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<ul style="list-style-type: none"> <li>- Impossibility of the revision of a SIS alert, together with the decision on the prohibition of entry based on the SIS alert</li> <li>- Impossibility to challenge the lawfulness of a SIS entry with the border police, the absolute binding nature of a SIS alert for the border police</li> <li>- The Court's confinement to examining only whether the authorities' decision was based on the proper application of the law in administrative lawsuits</li> </ul>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>"[19] Az alperes számára a [jogsabály] mérlegelést, eltérést nem engedő rendelkezéseket tartalmaz. (...) Az alperes (...) a SIS figyelmeztető jelzését nem bírálhatja felül, az abban szereplő adatokat nem is vizsgálhatja, hanem a jelzés alapján köteles megtagadni a beléptetést.</p> <p>[20] Az alperesi határozat jogszerűségét (...) érdemben nem érintették azon felperesi előadások, hogy nem kaptak megfelelő tájékoztatást arról, hogy mi alapján történik a beléptetés megtagadása a határon, illetve nincs tudomásuk velük szemben beutazási tilalom elrendeléséről, erre vonatkozó eljárásról, ilyen döntésről tájékoztatást semmilyen úton nem kaptak.</p> <p>[21] A jelen bírósági felülvizsgálat tárgyát az alperes beléptetés megtagadása határon tárgyú határozatai képezték, így az idegenrendészeti hatóság döntéseinek a jogszerűsége, a döntések közlésének a szabályszerűsége jelen perben jogvita tárgyát nem képezhetette. ... [Ezeket] az idegenrendészeti hatóság előtt sérelmezhetik."</p> <p>"[19] For the respondent, the [law] contains provisions which do not allow discretion or deviation. The respondent may not overrule a SIS alert, the respondent may not examine the related data, but it is obliged to deny entry on the basis of the alert.</p>

	<p>[20] The plaintiff's statements claiming that they did not received adequate information on the basis of the denial of entry at the border and that they were not aware of the issuance of any entry bans concerning them, and that they did not receive any information on such decisions have no relevance as to the lawfulness of the respondent's decisions.</p> <p>[21] The object of the present judicial supervision is the respondent's decisions on the denial of entry, so the lawfulness of the decisions of the alien policing authority and the regularity of the communication of these decisions may not have been the object of the present legal dispute. ... [The latter] may be challenged at the aliens policing authority"</p>
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<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> <b>Please provide the most relevant High Court decision related to the topics addressed in the chapter (i.e. data protection, and/or AI systems)</b>
<b>Decision date</b>	8 February 2022
<b>Reference details</b>	<a href="#">National Authority for Data Protection and Freedom of Information (<i>Nemzeti Adatvédelmi és Információszabadság Hatóság</i>) Decision no. NAIH-85-3/2022</a>
<b>Key facts of the case (max. 500 chars)</b>	Budapest Bank Zrt., a financial institution in Hungary, records all customer service phone calls. Each night, software analyses all new audio recordings. The software uses AI to find keywords and assess the emotional state of the client at the time of the call. The result of the analysis is stored within the software for 45 days, along with the voice call. The result of the analysis is a list of persons sorted by likelihood of dissatisfaction and anger based on the audio recordings. Designated employees then mark clients to be called by customer service to assess the reasons for their dissatisfaction. No information on this particular data processing was provided to clients, thus no right of objection was technically possible. The data processing was planned and carried out knowing this
<b>Main reasoning/argumentation (max. 500 chars)</b>	The National Authority for Data Protection and Freedom of Information (NAIH) became aware of the fact that the Budapest Bank Zrt. performed automated analysis on the customer service phone calls. As data processing was not clearly specified in the information provided to the data subjects, NAIH started an investigation against Budapest Bank Zrt. <i>ex officio</i> to review its general data processing practices

<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	<p>The impact assessment confirmed that the data processing in question causes increased threats to the fundamental rights of data subjects. Neither the impact assessment nor the legitimate interest assessment provided any actual risk mitigation, as the measures existed only on paper (information, right to objection) and were insufficient or non-existent. NAIH claimed that AI is by nature difficult to deploy in a transparent and safe manner, therefore additional safeguards are necessary. Due to its internal working, it is difficult to confirm the results of personal data processing by AI, and it may be biased</p>
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>NAIH determined the serious infringement of numerous articles of the GDPR for a long period. It ordered the data controller to stop processing the emotional state of the clients, to continue the data processing only if it was made compliant with the GDPR, and issued an administrative fine of HUF 250 million HUF (€ 611,750)</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>Point 44 of the reasoning of the decision:</p> <p><i>"Az érintettek hangjának és érzelmi/hangulati állapotának elemzése, felhasználása és tárolása szenzitív jellegű adatkezelésnek minősül. Bár a Hatóság megítélése szerint a konkrét esetben nem az általános adatvédelmi rendelet 9. cikk (1) bekezdése szerinti különleges kategóriájú személyes adatokról van szó, ettől függetlenül ezek kezelése az érintettek privát szféráját érinti."</i></p> <p><i>"The analysis, use and storage of the voice and emotional state of the persons concerned is a form of sensitive data controlling. Although, according to the Authority's opinion, in this particular case it is not a special category of personal data according to Article 9 (1) of the General Data Protection Regulation; regardless of this, their handling affects the private sphere of the data subjects."</i></p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide the most relevant High Court decision for the related topics addressed in the chapter</b>
<b>Decision date</b>	9 March 2022
<b>Reference details</b>	Kúria ( <i>Supreme Court</i> ) Bfv.1228/2021/7
<b>Key facts of the case (max. 500 chars)</b>	A criminal proceeding was initiated against the child defendant, who was charged with illegal entry into private property. The investigating authority decided on the appointment of a defence counsel to the child defendant at the beginning of the proceeding, as required by Article 682(1) of Act XC of 2017 on the criminal proceeding <sup>289</sup> (CPA). Based on this decision, the local bar association appointed lawyer 1 as the defence counsel for the child. In the course of the court proceeding, however, lawyer 1 suspended his legal practice. In the appellate court proceeding, the Court did not decide on the appointment of another lawyer to the defendant, instead allowing lawyer 2, who was the curator of the ongoing cases of the originally appointed, to be present during the hearing
<b>Main reasoning/argumentation (max. 500 chars)</b>	The prosecution service asked for the review of the final and binding judgment from the Supreme Court of Hungary ( <i>Kúria</i> ) based on the fact that the appellate court did not make a decision on the appointment of a new defence counsel to the child defendant. The prosecution service claimed the appellate court committed a serious procedural violation when it had neglected the formal appointment of a new lawyer
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The Supreme Court had to decide whether the CPA's provision (Article 682(1)) that the participation of a defence counsel in criminal proceedings against young age defendants is mandatory requires a decision from the criminal authorities to formally decide on the appointment of a lawyer, or whether the mere presence of a lawyer for the procedural acts is sufficient to meet the requirements of the CPA
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	The Supreme Court stressed that it only has a power to annul a binding judgment if the Court had committed an absolute and serious procedural violation. The Supreme Court interpreted Article 682(1) of the CPA as a provision that requires a defence counsel to be present for the full duration of the criminal proceeding. According to the Supreme Court, the CPA does not oblige the authorities to formally decide on the appointment of a new lawyer in cases when the originally

<sup>289</sup> Hungary, [Act XC of 2017 on the criminal proceeding](#) (2017. évi XC. törvény a büntetőeljárásról), 1 July 2018.



	appointed lawyer cannot be present. The Supreme Court emphasised that the person acting as defence counsel for the child shall be a person entitled to exercise the legal profession, and lawyer 2 met these requirements. The Supreme Court, therefore, had no authority to review the binding judgment on the basis of a serious procedural violation
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	Point 28 of the Reasoning of the decision: "A védő meghatalmazásával, kirendelésével kapcsolatos szabályok esetleges megsértése a védő tárgyalási jelenlétét, a védelem tényét nem kérdőjelezi meg." "A potential violation of the rules related to the authorisation and appointment of the defence counsel does not call into question the presence of the defence counsel at the trial or the fact of the defence"

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide the most relevant High Court decision related to topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women)</b>
<b>Decision date</b>	15 June 2022
<b>Reference details</b>	Municipal Court of Appeal Military Council ( <i>Fővárosi Ítéltábla Katonai Tanácsa</i> , MCA Military Council), Kbf.21/2022/16 (second instance)  Debrecen Regional Court ( <i>Debreceni Törvényszék</i> ), Kb.2/2022/14 17 March 2022 (first instance)
<b>Key facts of the case (max. 500 chars)</b>	The accused was charged with repeatedly and severely assaulting his partner, restricting her personal freedom, and threatening to kill her child. The victim suffered injuries that took longer than eight days to heal (legal threshold for serious bodily harm). The accused was sentenced by the first instance court to two years of imprisonment by means of accumulative punishment for two distinct crimes: partner violence (Article 212/A (2) b) of Act C of 2012 on the Criminal Code (2012. Évi C. törvény a Büntető Törvénykönyvről) <sup>290</sup> and violation of personal freedom (Article 194 (1) Criminal Code). The MCA Military Council altered the first instance judgment by claiming that

<sup>290</sup> Hungary, [Act C of 2012 on the Criminal Code](#) (2012. évi C. törvény a Büntető Törvénykönyvről).

	<p>instead of two distinct crimes, a qualified case of partner violence was committed, and alleviated the sentence of the accused.</p> <p>The first instance judgment of the case has been reported by the regional and national media as well in 2022. Media sources in relation to the case emphasised that the the former soldier accused had been torturing and beating his partner for months. Meanwhile, the first instance court, when it was rendering the judgment, drew attention to the accrued vulnerability of victims of partner violence, due to the high degree of latency and the emotional and economic dependance of the victims in regards to the perpetrators. The court also emphasised that – beacuse of the above mentioned reasons - the perpetrators may abuse the situation for a longer time without the outside world taking notice of the their day after day pursued abusive conduct.<sup>291</sup> However, the case reported here did not generate as widespread debate on the disfunctionality of the Hungarian victim support system as the similar case of Ms O., which is still under court deliberation.<sup>292</sup></p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The MCA Military Council excluded the accumulative establishment of the two crimes, maintaining that the more severely qualified form of 212/A (2) b) “assimilates” (incorporates) the less severe crime (violation of personal freedom). Thus, the actions of the accused shall fall under the scope of Article 212/A (2) b) of the Criminal Code in unison. Similarly, according to the second-instance judgment, the accused repented his crimes, the victim forgave him, he was discharged from military service and now lives an orderly family life and attends therapy, all of which underscores the alleviation of his punishment to an imprisonment suspended for a probation period</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<ul style="list-style-type: none"> <li>- Scope of application of the crime of partner violence in conjunction with other related crimes (cumulative punishment)</li> <li>- Significance of the repentance of one’s crime, efforts to change behaviour) and the victim’s forgiveness in crimes related to domestic violence (in view of the dynamics and nature of domestic violence)</li> </ul>

<sup>291</sup> Népszava.hu, [The former soldier has been torturing and beating his partner for months, he received 2 years of imprisonment \(Hónapokig verte, kínoztta élettársát a volt katona, két év börtönt kapott\)](#), 18 March 2022.; Dehir.hu, [The former soldier who beat his partner from Debrecen several times received two years of imprisonment \(Két év börtönt kapott az az egykori katona, aki többször is meqverte debreceni élettársát\)](#), 18 March 2022.

<sup>292</sup> Antoni, R., Rajzák, K. (2022), [The case of Bernadett Orosz shows the most severe deficiencies of the Hungarian victim support system \(Orosz Bernadett ügye megmutatja, melyek a legsúlyosabb hiányosságai a magyar áldozatvédelmi rendszernek\)](#), Mércse.hu, 20 February 2022; Nlc.hu, [Bernadett Orosz uses artificial lenses to see since she was beaten half-dead by her partner \(Műlencsével lát Orosz Bernadett, mióta az élettársa félholtra verte\)](#), 10 December 2022.

<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>Clarification of the application of Article 212/A (2) b), which prescribes that the crime of partner violence is to be qualified more severely if it is committed with the violation of the personal freedom of the victim</p> <p>In view of the dynamics of the crime (its cyclical nature, the perpetrators' dominant position and threatening influence over the victim, the violent nature of the crime, etc.), the question arises of the extent to which the present "orderly" family life, or the fact that the victim "forgave" the accused may be taken into the consideration, while the authorities shall shield the victims of partner violence from secondary victimisation during criminal proceedings, from the influence of the perpetrator or confrontations with him, providing the victims a real chance to break the cycle. The perpetrator's participation in some unspecified forms of therapy was also taken into account as an alleviating factor. The perpetrators of partner violence in Hungary are not obliged to participate in any specialised therapy and such therapy is not officially available/provided for them.</p> <p>In view of the violent nature of the abuse committed, the alleviated, suspended punishment may appear too mild, albeit far from unprecedented.<sup>293</sup> The military context of the case may also make it more difficult for the victims to bring charges against the perpetrators</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"A másodfokú katonai tanács álláspontja szerint a kapcsolati erőszak büntettének súlyosabban minősülő esete magába olvasztja az enyhébben minősülőt, ezért a vádlott cselekményei egységesen a Btk. 212/A. § (2) bekezdés b) pontjába ütköző kapcsolati erőszak büntettének minősülnek. A Kúria hasonló elvek alapján foglalt állást a kapcsolati erőszak tekintetében az ugyanazon sértett sérelmére megvalósított testi sértés és tetteges becsületsértés törvényi minősítését illetően (EBH2017. B.17.) (par. 16)"</p> <p>"In view of the second instance military council, the more severely qualified case of the crime of partner violence assimilates the less severely qualified one, thus, the actions of the accused shall fall under Article 212/A (2) b) of the Criminal Code in unison. The <i>Kuria</i> formed its standpoint on a similar basis in relation to the legal qualification of the crime of partner violence when it was committed by bodily harm and assaultive slander indicted upon the same victim (EBH2017. B.17.) (par. 16)"</p>

<sup>293</sup> See, for example, Győr Court of Appeal (*Győri Ítéltábla*), Decision Bhar.106/2021/53, March 2022.

<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b> <b>Please provide the most relevant High Court decision that quoted the CRPD or prominently referred to the CRPD in the reasoning</b>
<b>Decision date</b>	27 September 2022
<b>Reference details</b>	Supreme Court, Case no.: Kfv.IV.37.139/2022/9, <a href="#">Plaintiff 1 versus Észak-budapesti Tankerületi Központ</a>
<b>Key facts of the case (max. 500 chars)</b>	The plaintiff was a minor pupil with special educational needs, who required special attention and treatment, according to the evaluation of the Metropolitan Pedagogical Specialist Service and subsequent expert opinions (with annual re-evaluation). The applicant lodged an appeal asking for the amendment of the decision, as well as the underlying expert opinion, so as to annul the finding that the applicant should be placed in separate education and instead order integrated education. Accordingly, he asked to be moved to an integrated educational establishment appropriate to his abilities. In his view, his segregated special education institution was not in his best interest, did not suit his abilities and intellect, and prevented him from engaging in further education. He explained that this institution had been designated, and the Committee of Experts had recommended special education, was because there was no State primary school with a mainstream curriculum within reach of his home that could provide for his special educational needs
<b>Main reasoning/argumentation (max. 500 chars)</b>	Not allowing the child to participate in mainstream education violated his right to an inclusive education according to his ability, did not meet his best interests, and discriminated against him on the basis of his disability, in violation of Article 5 (equality and non-discrimination), Article 7 (best interests of children with disabilities) and Article 24 (right to education appropriate to the ability of the disabled person) of the CRPD, as well as Articles 8(g), 10(2) and 27(3) of the Act CXXV of 2003 on equal treatment and the promotion of equal opportunities (the Equal Treatment Act), among others
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The Authority argued that it took its decisions based on the expert opinions and could not deviate from those opinions, as it had no expertise on how the compulsory education was to be fulfilled: it can only assess the legality of the procedure. The first instance administrative court agreed and found that the subject matter of the lawsuit was not discrimination but whether the public administrative procedure was lawful. It also stated that the matter of discrimination is the competence of the civil courts, not the public administrative courts. On appeal, the applicant

	<p>argued that if the parent disagrees with the expert's opinion, an "internal review" will take place before the same committee, but this procedure lacks procedural guarantees, which violated his right to a remedy. In his view, the fact that the court of first instance had appointed an ad hoc expert to whom the applicant had expressly objected on the ground of bias also led to a breach of his right to a legal remedy. He also complained that the specialised services that review each other's expert opinions are run by the same institution. He maintained that an expert opinion on learning capacity is an administrative act that can be subject to judicial review. It maintained that the decision constituted a violation of equal treatment</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Supreme Court found that the Authority's expert opinion cannot be considered a public administrative act and as such it cannot be subject to public administrative judicial review on its merits. However, it stressed that the judicial review of the legality of administrative decisions cannot be constitutionally limited to an examination of formal legality. Accordingly, it examined whether the proceedings of the first instance court complied with the constitutional requirement of the Constitutional Court (i.e. whether it adjudicated the administrative dispute on the merits). The substantive issue was whether the court of first instance reviewed the decisions taken in the prior proceedings as administrative acts, including the findings of the expert opinions. It found that the lower courts complied with this requirement by the appointment of the ad hoc expert who reviewed the authorities' prior decisions on their merits</p> <p>In relation to the discrimination claim, however, the Supreme Court found that the lower instance court failed to examine whether the applicant's right to equal treatment has been breached. It explained that the court cannot exempt itself from the examination of the constitutionality of the case before it, including the examination of equal treatment. In light of this, the first instance court erred in holding that it could not make a finding based on the Equal Treatment Act when examining sectoral rules on education. The Supreme Court also found no justification for the lower court's position that equal treatment would fall within the competence of the civil courts. The Supreme Court order the retrial of the case, during which the court of first instance must exhaust the plaintiff's claim and, in this context, assess his submissions on the violation of equal treatment. In doing so, it must examine whether the plaintiff's right to equal treatment was infringed in the pre-trial proceedings or in the decisions in the proceedings</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>[60] "... a bíróságnak a jogszabályok adta értelmezési mozgástér keretein belül azonosítania kell az elé kerülő ügy alapjogi vonatkozásait, és a bírói döntésben alkalmazott jogszabályokat az érintett alapjog alkotmányos tartalmára tekintettel kell értelmeznie. (3/2015. (II. 2.) AB határozat Indokolás [17]) Az alkotmánybírósági döntés szerint tehát, ha a bíró azonosítja, hogy az ügyben</p>

	<p>alapjogi kérdés merült fel, az Alaptörvény 28. cikkében foglalt szabály alapján fel kell tárnia az alapjog alkotmányos tartalmát.”</p> <p>[60] “... the court must identify the fundamental rights aspects of the case before it within the margin of interpretation provided by the legislation and interpret the legislation applied in the judicial decision in the light of the constitutional content of the fundamental right concerned. (Decision 3/2015 (II. 2.) AB Reasoning [17]) According to the Constitutional Court's decision, therefore, if the judge identifies that a fundamental right issue has arisen in the case, they must reveal the constitutional content of the fundamental right on the basis of the rule laid down in Article 28 of the Fundamental Law.”</p>
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