



European network against racism

ENAR Shadow Report 2010-2011

ENAR SHADOW REPORT

**Racism and related discriminatory practices
in Hungary**

**International Law Research and Human Rights
Monitoring Centre**

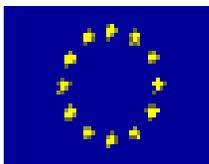
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

The report covers a time of great political changes following the elections in April 2010 that ushered in a two-third majority parliament, the first since the political changes in 1989¹; and a new government. The Jobbik, a party known for its anti-Roma propaganda also did manage to get into parliament as the third largest party.

Using the absolute majority in parliament, the government introduced and passed legislation including the amendment of the Constitution² which was widely criticised to violate Hungary's international human rights obligations.

It is therefore **recommended** that;

- Hungary considers and respects its international human rights obligations when drafting and passing new legislation;
- Hungary initiates wide consultations with all stakeholders when amending fundamental legislation like the Constitution.

Due to the global economic turndown, Hungary continued to face declining exports, and low domestic consumption and fixed asset accumulation, dampened by government austerity measures. Unemployment remained high, at more than 11%.

Migrants and the Roma continue to face difficulties in accessing rights in the areas of **employment, housing, health, education; and accessing public and private services**. Although there are various endeavours to facilitate the integration and social inclusion of migrants and Roma, there is no mechanism in place to evaluate the effectiveness of the initiatives. This, coupled with the lack of a comprehensive social inclusion and migration strategies, hinders the ability of these initiatives to reach the most vulnerable groups.

It is therefore **recommended** that:

- Hungary puts in place a comprehensive social inclusion strategy for the Roma and migrants;
- Hungary puts in place a comprehensive migration policy that takes into consideration the specific needs of migrants, especially refugees and other beneficiaries of international protection;
- Refugees should have access to the homeless shelters and support services;
- A multi-sectoral approach should be used in the integration of migrants;

¹ A national roundtable comprising of representatives of new parties and some recreated old parties; and some social groups met in the summer of 1989 to discuss major changes to the Hungarian Constitution in preparation for free elections and the transition to a fully free and democratic political system

² Act XX of 1949 as revised and restated by Act XXXI of 1989

- Current initiatives need to be evaluated and revised accordingly, in order to reach out to as many as possible from the vulnerable groups.

The insecure economic environment led to the continuation of targeted attacks and violence against members of the Roma community by far-right and radical organisations.

It is therefore **recommended** that;

- Perpetrators of racist crimes should be brought to justice in a timely manner;
- Politicians and community leaders should condemn racist attacks when they occur and make clear that there is zero tolerance for violent hate crimes;
- The police should investigate violent attacks targeting ethnic minorities and migrants as racially motivated attacks as well;
- The government should establish a national fund that would be used to compensate victims of racially motivated violence.

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III. Introduction

This shadow report was written with the input of ENAR Hungary members and sister organisations working in the field of human rights protection and anti-discrimination in Hungary; and covers events within the mandate of ENAR, covering the period of March 2010 to March 2011. The report contains views and experiences of non-government organisations through staff input.

In the first half of 2011, Hungary held the rotating EU Presidency. At the start of the Presidency Hungary promised to focus on economic recovery and Roma integration and empowerment. In this respect, Hungary was successful in introducing an EU Framework of National Roma Integration Strategies that aim to improve the situation of the Roma population terms of education, employment, health care and housing by 2020.

On the political scene, in March 2010 Hungary witnessed a change in Government following an election that ousted the Hungarian Socialist Party (MSZP) – Free Democrats (SZDSZ) coalition government and ushered in the FIDESZ – Hungarian Civic Union and Christian Democratic People’s Party (KDNP) to government with a three-thirds majority in Parliament.³

As reported in the last shadow report⁴, the wave of dissatisfaction with the former MSZP – SZDSZ governing coalition favoured the current government coalition which was in opposition during that reporting period. The FIDESZ – KDNP alliance sent more Members of the European Parliament⁵ to the European Parliament and won the national parliamentary elections held in April 2010 with a three-third majority,⁶ raising fears among human rights activists that the incoming government may misuse their majority support in parliament to amend the constitution and introduce legislation curtailing individual rights and human rights in general, in the long run endangering democracy in Hungary. A point in case is the idea by KDNP to enshrine in the new constitution that marriage is strictly a relationship between a man and a woman.⁷

Since April, when the new government came into power, the parliament has approved a new constitution with little consultation with relevant stakeholders and the populous; an action many consider to undermine the democratic principles of

³ Of a total of 386 members of Parliament: 263 FIDESZ – KDNP, 59 MSZP, 47 JOBBIK – The Movement for Better Hungary, 16 Politics Can be Different and 1 Independent

⁴ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010: Racism and Discrimination in Hungary

⁵ Out of 22 Hungarian MEPs 14 represent the FIDESZ – KDNP alliance

⁶ The FIDESZ – KDNP Alliance has 268 members of parliament out of a total 386

⁷ Memorandum On The Hungarian New Constitution Of 25 April 2011, http://www.eclj.org/pdf/ECLJ_Memorandum-Hungarian-Constitution_20110519.pdf, accessed 8 December 2011

checks and balances. Furthermore, the parliament passed new amendments that curb the powers of the Constitutional Court⁸, limiting the Courts role to rule on fiscal matters, thus further weakening the democratic checks and balances on the activities of the government. A new media law that restricts media freedom, as well as being incompatible with Hungary's human rights obligations, was also passed by Parliament.⁹ The new media law gives the state wide powers of discretion in monitoring and penalising private media. A draft labour law which undermines the rights of employees was submitted to the parliament during the same period.¹⁰

The report further looks, from a human rights perspective, at how laws passed by, and the actions of, the current conservative government have further led to the deterioration of the human rights situation in country, especially for the vulnerable groups mentioned in detail in the report.

⁸ Act XXXII of 1989 on the Constitutional Court

⁹ Media Law 2010 (English version), <http://www.scribd.com/doc/46310168/Hungarian-Media-Law>, accessed 8 December 2011

¹⁰ <http://www.wsws.org/articles/2011/aug2011/hung-a29.shtml>, accessed 8 December 2011

IV. Communities vulnerable to racism and discrimination

There has been no change among the main vulnerable groups facing discrimination. These continue to be the Roma,¹¹ migrants¹² including third country nationals, asylum seekers, refugees, persons accorded subsidiary protection, persons accorded tolerated stay status, stateless persons; those with special needs and the disabled. Women and children commonly face multiple-discrimination. Although human rights are embodied in regional and national legislation, vulnerable groups face difficulties accessing these particular rights. There is a discrepancy between the actual rights guaranteed and accessing these particular rights.

In accordance with ENAR's mission, this report is about those vulnerable communities who face racism and discrimination, due to their colour, ethnicity, national origin, nationality, religion, culture and/or legal status.

Roma

The Roma population forms the largest ethnic minority in Hungary; authoritative estimates of their number are between 550,000 and 600,000.¹³ Demographic change in Hungary is characterised by an ageing population while the number of people of Roma origin is rising and the age composition of the Roma population is much younger than that of the overall population.¹⁴

Although all minorities and vulnerable groups in Hungary constantly face discrimination, both in accessing public and private services, the Roma continue to face the toughest hurdles. This is evident in the high numbers of those with low skills, those who are unemployed, and those facing difficulties accessing the social and health services within the Roma community. Nationalists and far-right groups continue to target Roma and other dark skinned persons, mostly foreigners.

High levels of discrimination against the Roma persist, especially in the areas of education, housing, employment, health care and access to other important public social services, including discrimination, not only on the part of private persons and entities but also on the part of public authorities.¹⁵

¹¹ Roma, the Romani and Gypsy refer to the same ethnic group in this report.

¹² In this report, the term 'migrant' includes long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, women migrants and children and undocumented migrants.

¹³ http://academos.ro/sites/default/files/biblio-docs/1036/hungary_report.pdf, accessed 8 December, 2011.

¹⁴ Fact Sheets on Hungary: Ministry of Foreign Affairs Budapest, 2004.

¹⁵ European Roma Rights Centre, Bulgarian Helsinki Committee, Milan Simecka Foundation and Osservazione: Life Sentence – Romani Children in Institutional Care, June 2011

Third Country Nationals

The situation reported in the last shadow report¹⁶ regarding the general attitude of fear towards third country nationals, especially those of colour, has not changed. Immigration in Hungary is still very low, thus stereotypes of immigrants are not shaped by foreigners but by a fear of the unknown, as well as the negative image of the immigrant emerging in public discourse and political debates. In the past few years the political elite has continuously and actively contributed to rising fears related to migration. Linking terrorism to the Islamic religion and Arabs has not helped either. In light of this, it is not surprising that a majority of the Hungarian population is extremely prejudiced against immigrants in respect to public safety, the labour market and cultural identity. As a result, Hungarians' tolerance for immigrants is among the lowest in Europe.

Once concrete 'evidence is provided', the yet unfocused prejudices may prove to be a perfect breeding ground for a successful anti-immigrant policy.

The most recent statistical data available from the Office of Immigration and Nationality (OIN) shows that there are slightly more than 100,000 third country nationals officially registered as holding some form of legal residency in Hungary as of 31 December 2010.¹⁷

Status	Number of persons
Immigration permit	42,659
Permanent residence permit	20,588
Residence permit	32,897
EEA residence permit	12,990
Registration certificate	72,938
Permanent residence card	14,272
Third-country national family member of a Hungarian citizen	7,025
Third-country national family member of an EEA citizen	432
EC permanent residence permit	398
National permanent residence permit	5,504
Permanent residence permit with limited validity	9
Total	209,703

*Source: OIN¹⁸

¹⁶ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010: Racism and Discrimination in Hungary

¹⁷ This is the latest updated data

¹⁸ www.menekultugy.hu: Number of immigrants, persons with permanent residence permit and staying longer than three months, accessed 25 August 2011

Although there is a lack of data collected centrally, NGOs working in the anti-discrimination field continue to have the view that the situation concerning third country nationals has not improved. They continue to face discrimination, especially in accessing employment, social and health services; and suitable and affordable housing.

Asylum Seekers and Persons granted International Protection

According to statistical data released by the Hungarian Office for Immigration and Nationality (OIN), Hungary received 2,104 asylum applications in 2010,¹⁹ a decrease of 55% compared to the previous year.²⁰

Among persons granted international protection, those accorded 'tolerated stay' status, (because they do not qualify for refugee status or subsidiary protection, and cannot be returned to their countries of origin and/or habitual residence), acquire lesser rights and benefits. Persons with tolerated stay status have very limited access to social support and services, hence their integration prospects are minimal and their future prospects in Hungary are low. This becomes more of a problem when a particular beneficiary of this status stays in Hungary for a longer time than that envisaged by the authorities.

The detention of asylum seekers still continues and has increased at an alarming rate since mid-April 2010. According to data²¹ provided by the Refugee Directorate of the Office for Immigration and Nationality 832 applications were submitted in detention compared to 271 in 2009.

The continual discrimination and exclusion of asylum seekers and refugees from social services and employment has led to a rise in the rate of poverty and the number of the homeless among these particular vulnerable groups.²²

Stateless Persons

Problems of statelessness, registration, and a lack of appropriate documentation, affect access to services in all areas of public life, including health services. Statelessness, and a consequent lack of status within the state of residence, as well as problems with documentation etc., must not be allowed to impede access to rights. In this regard, states need to be proactive in their efforts to ensure that Roma have all the necessary documentation for accessing health services, e.g. by providing information about accessing information documents, facilitating birth registration and reducing the costs of registration procedures for those on low

¹⁹ www.menekultugy.hu: There were 2,104 new asylum applications: 74 persons were granted refugee status, 115 persons granted subsidiary protection and 58 persons granted tolerated stay status, accessed 25 August 2011

²⁰ There were 4672 asylum applications in 2009

²¹ www.menekultugy.hu/statisztikak.php, accessed 25 August 2011

²² Refugee Homelessness in Hungary; UNHCR Regional Representation for Central Europe, Budapest, Hungary, March 2010 and UNHCR Regional Representation for Central Europe 2009 Report: 'Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe'

incomes. In the interim, access to health information and basic mainstream health services should be assured for those without documentation.

Hungary is one of the two countries in Europe with a 'statelessness determining procedure' in place.²³ However, to be officially admitted to the statelessness determination procedure, one has to be lawfully residing in Hungary. Such a procedure leaves those stateless people who are in need of protection, but do not lawfully reside in Hungary, in limbo.

The number of stateless persons in Hungary is unknown. In the reporting period there were about 62 persons recognised as stateless, but the number of stateless persons resident in the country is unknown.²⁴ Stateless persons are not entitled to protections and/or any kind of social benefits which are provided to citizens and the persons provided international protection in Hungary.

Jewish Population

Attacks targeting Jewish property have continued in the reporting period; and so has the publication of anti-Semitic articles in the extremist newspapers and websites.

Women and Children

Unaccompanied minors who have been granted international protection are unable to access the mainstream childcare and protection services.²⁵

Women and children, especially those of minority and/or foreign background are commonly victims of multiple-discrimination, including within their own community. Women continued to endure discrimination in law and practice. Compared to their male counterparts, women have less access to both private and public services. Women have less protection against domestic violence. Roma and migrant women face multiple discrimination, both as belong to specific vulnerable groups and as women.

Mothers with young children, women attempting to find a job after some years of absence from the labour market (due to child-raising or other reasons), and older women who have little education, all experience difficulties in accessing the labour market.²⁶ One of the reasons is discrimination, but the lack of access to opportunities in acquiring or renewing competitive knowledge and skills also plays a role.²⁷

²³ Gyulai, Gábor. Helsinki Committee and UNHCR 'Statelessness in Hungary' <http://www.unhcr.org/refworld/pdfid/4d6d26972.pdf>, accessed 8 December 2011

²⁴ Hungary is one of the very few countries in Europe with a statelessness determining procedure in place. However, the access to the procedure is restrictive and for only those persons already lawfully residing in Hungary

²⁵ Unaccompanied asylum seekers are cared for in a specialised facility of the asylum system, while other unaccompanied minors are cared for in the mainstream child care system. For further information see <http://www2.ohchr.org/english/issues/migration/consultation/index.htm> Hungary report.

²⁶ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010: Racism and Discrimination in Hungary

²⁷ Hungary at Employment Week 2004: Equal Opportunities for All p5

Persons with Disabilities

Persons with disabilities, especially those from the mentioned disadvantaged and marginalised groups, continue to face difficulties accessing public facilities, including buildings and transport, although a legal requirement exists that facilitates easy movement and access to public facilities. Although there is a lack of data, it is certain that ethnic minorities who suffer from racism and have disabilities, face double discrimination.

Lesbian, Gay, Bisexual and Transgender People

Although compared to the previous report, the situation has slightly improved, continuous prejudice against Lesbian, Gay, Bisexual and Transgender (LGBT) people still leads to isolation and harassment. LGBT people from every ethnic group face constant threats from extreme right wing organisations and the public in general, although it is thought that those from minority groups probably also face double discrimination.

V. Racism and related discrimination in employment

VII.i Manifestations of racism and related discrimination in employment

Employment of minorities and other disadvantaged groups is still a challenge and the situation has not changed for the better compared to the previous reporting year. The two outstanding major concerns are: the high rate of unemployment among the Roma and the lack of and/or difficulty in accessing employment by the disadvantaged groups of persons, especially the Roma. This is mostly interlinked with the applicants' origin and physical appearance.

However, it must be stated that the above mentioned concerns are complex and are intimately linked to other factors of successful integration and social inclusion namely; housing, education, health, access to goods and services in the public and private sector. Therefore the impediments to accessing employment, and the high percentage of the unemployed among certain groups, is directly linked to poor housing, poor health, lack of/ or low education and lack of transportation infrastructure to mention but a few.

The continuing economic hardships that the country is facing has not helped either, but rather had a greater negative impact on the disenfranchised groups. The austerity measures and cuts introduced by the government have mainly affected those persons at the lower scale of the society, the majority of whom are Roma. Many have lost jobs and/or have been unable to gain employment, because no more jobs have been created.

Among all the groups vulnerable to racism and discrimination, 'Roma continue to face both a disproportionately high rate of unemployment and discrimination in access to employment'.²⁸

Almost 90% of Roma adults are unemployed and most are living below the poverty line. and with worsening racial attitudes, it is becoming even harder to find employment, especially since many Roma lack a decent level of education. Fewer than 10% of Roma students complete secondary school in Hungary.²⁹ According to the FRA's 2009 statistical survey findings 47% of Roma in Hungary reported discrimination in access to employment.³⁰

Although there is lack of current and updated data, non-governmental organisations working in this area highlight that third country citizens continue to

²⁸ International Law Research and Human Rights Monitoring Centre: ENAR Shadow report 2009-2010; Racism and Discrimination in Hungary p13

²⁹ <http://www.soschildrevillages.org.uk/charity-news/archive/2010/08/poverty-of-the-roma-in-hungary>, accessed 8 December 2011

³⁰ European Union Agency for Fundamental Rights: European Union Minorities and Discrimination Survey: Main Report (2009). available at: http://fra.europa.eu/fraWebsite/eu-midis/eumidis_main_results_report_en.htm, accessed 8 December 2011

have difficulty in accessing employment, both in the private and public sphere.³¹ This is partially due to the host communities unwelcome attitude and perception of people from other parts of the world; and also due to the inefficient integration system that does not take into consideration the specific needs of foreigners, especially those of third country citizens. Compounded with the lack of information, and/or information in a language they understand, on the available job opportunities, the third country nationals may only count on their ethnic and/or national communities for employment. Even in those cases when employment is found, especially in the blue collar job section; the salaries paid to these people are below the official minimum wage; and usually the health insurance and pension fund contribution are not even paid by the employer.³²

For those persons provided international protection by Hungary, the situation has not changed for the better during the reporting period. The lack of an efficient and systematic integration process is a major problem and the lack of knowledge of the Hungarian language is still a major obstacle to finding employment.

Those persons with qualifications from the countries of origin and/or any other country outside the European Union still find it difficult to access the job market because the process of recognising acquired educational qualifications is very slow, lengthy and expensive. Additionally, in most cases the recognition of a diploma necessitates that the applicant sit a complementary exam, in Hungarian. As reported last year's shadow report³³, few persons are able to comprehend the Hungarian language so well, that they can comfortably sit such an exam after 3-4 years of their arrival in the country.

Persons with a 'tolerated stay' status need a work permit before they can work. However, the work permit is mostly given to persons with more than one year of residence in the country. 'Tolerated stay' status is valid for one year and renewable; hence, the beneficiaries of this status rarely access the labour market.

Recognised refugees and beneficiaries of subsidiary protection are not able to access vocational training in the pre-integration centre, or outside the centre, which could potentially develop their skills and eventually contribute to them finding an employment in Hungary.

³¹ According to author's consultations with various NGO's.

³² This is common in the construction and the agricultural(farming) industry

³³ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010: Racism and Discrimination in Hungary

Examples of NGO Good Practice

The European Roma Rights Centre runs an internship, the Romani internship programme aimed at facilitating Roma students attain experience through practice and tutorship.³⁴

The Centre for Independent Journalism in Budapest continued to run the Roma media internship programme. Under the programme, persons from the Roma community are provided with training in various media skills, before being seconded to one of the print and broadcast media houses for an internship. Most participants can be employed after the internship period.³⁵

VII.ii The political and legal context

Since March 2010, there was no specific national action plan and no developments aimed at improving access to employment for the mentioned vulnerable groups. Regarding the Roma, the government was still in the process of writing a national Roma strategy at the time of writing this report. It is expected that the strategy, among other things, will include targeted actions aimed at facilitating the Roma communities' access to employment.

Nevertheless, both the Police and the Army continued to specifically targeting persons from the Roma community to join their ranks during recruitment drives.

The government introduced a compulsory community work programme³⁶ for all those receiving social support, the majority of who are Roma. Basically, this meant that the persons get paid a wage higher than the amount received as social support, but lower than the minimum wage. However, if they refused to partake in community work, they lose the social support as well.

On the legislative and legal side, the government introduced amendments to the labour code³⁷ that would lead to the restriction of the right to strike and also undermine the rights of the employers, meaning that they could easily be fired without the need to provide a reason; and including the restriction of the right to severance pay after termination by employer.

The major gap when it comes to the employment of persons, who are non-Hungarian, is due to the fact that the government has not taken any initiative to

³⁴ www.errc.org accessed 8 December 2011

³⁵ www.cij.hu accessed 8 December 2011

³⁶ A plan approved by the Hungarian Parliament in July 2011 requires anyone who receives a social allowance to work on construction sites, to clean the streets or maintain parks and forests. In the case of refusal, the allowances would be stopped. Some flexibility is envisaged with respect to elderly and sick people, as well as to single parents with children.

³⁷ Act 22 of 1992 of the Hungarian Labour Code

facilitate this as it is not considered a priority. The first step would be to have a migration policy and/national integration action plan in place, and other forms of protection, for refugees, and for third country nationals. The action plan would outline actions aimed at improving access to employment, among other things.

NGOs working with the Roma have been concerned by the 'compulsory community work programme', which is thought to indirectly target the Roma. The initiative presents only one possibility, which is that one either works or loses social support, but does not take into consideration the special needs and concerns of individuals.

A number of NGOs like the Hungarian Association for Migrants have initiated projects that are meant to facilitate easy access to the job market. These include training on how to write a CV, job interview practice, and Hungarian language classes.

VI. Racism and related discrimination in housing

VI.i Manifestations of racism and related discrimination in housing

The access to suitable and affordable housing has continued to be a hurdle for vulnerable groups mentioned in this report, especially the Roma. The majority of the Roma, even those living in cities, live in areas with poor access to public services, poor infrastructure, and high unemployment. Invariably poor housing conditions negatively impact the quality of health and the access to quality health services.

People living in deprived areas tend to suffer from multiple disadvantages ranging from a lack of opportunities (stemming from poor quality schools and few local businesses), to low aspiration levels (due to a lack of positive role models), to reduced mobility and low levels of political participation. This is further aggravated by private services relocating because of the low purchasing power in the area. A negative image is often associated with these areas, often through media reports focusing on criminality and social problems. Consequently, local inhabitants are often stigmatised to the point that it is more difficult for them to find a job.³⁸ A 2010 study by the ERRC found that, in many European countries, Roma housing does not meet adequate living standards. The study confirmed that racism and discrimination pose obstacles to adequate housing for Roma, many of whom live in segregated communities, and that the forced eviction of Roma continues despite the absence of adequate alternative solutions.³⁹

The lack of an efficient integration system for refugees and holders of complementary protection has led to these people living in precarious situations, including homelessness, due to the difficulties to access social housing and/or to find affordable accommodation. The financial support provided to refugees when they are leaving the pre-integration centre in order to move to private accommodation is not sufficient enough to acquire suitable and affordable housing. In most cases, the refugees end up staying in low cost areas with little access to health, educational, or social, services. 'It is further noted that homeless refugees have difficulties accessing mainstream homeless shelters: even in those cases when it is possible, they find themselves in an environment full of racism and intolerance'.⁴⁰

The Ombudsman initiated an investigation in response to a petition filed by the Mahatma Gandhi Human Rights Organisation in the case of 10 refugees who

³⁸ Social Exclusion and Inequalities in European Cities: Challenges and Responses; Inclusive Cities for Europe, September 2009 p20

³⁹ ERRC: Standards do not apply: Inadequate housing in Roma communities (2010)

⁴⁰ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010; Racism and Discrimination in Hungary

became homeless after being requested to leave the pre-integration centre in Bicske where they had resided for six months. The Ombudsman concluded that the risk of becoming homeless in Hungary concerns mostly the foreigners with the lowest levels of education and who are practically illiterate, who do not speak Hungarian.⁴¹

The situation of third country nationals and other foreigners, especially those of colour, is still the same as in the previous years: 'It is still common to find that the rent for Hungarian and migrants is different. Migrants are often, but not always, charged a higher rental fee compared to Hungarian nationals. Furthermore, proprietors rarely want to issue written contracts and to agree with migrants to register the address as their 'temporary abode' while in Hungary'.⁴² Without a registered address, these people may not be able to access public services that are tied to the place where one is a registered resident.

Examples of NGO Good Practice

The Hungarian Reformed Church runs a programme that assists refugees with finding housing after they have moved from the pre-integration centre in Bicske. The programme covers rent for the first two years, with the refugees paying for only the utility bills.⁴³

The Autonomia Foundation runs the Individual Development Account (IDA) housing Programme. This is an individual saving programme for low-income non-bankable people – amongst them Roma and young grown-ups of state care institutions. The goal of the savings is to improve the housing situation of the clients. The savings of the clients will be matched with a grant (based on IDA methodology). Clients are also eligible to take out a loan in order to achieve their asset goals. Counselling and family care, practical financial training, as well as technical advice and support for the renovations, with special attention to energy saving solutions, are provided for the participants in the project. Local governments are partners and share the risk of the loan capital given away in the settlements.⁴⁴

Public Foundation for the Homeless provides support to organisations working with the homeless and provides them with social services.⁴⁵

⁴¹ Report of the Parliamentary Commissioner for Civil Rights in case no. AJB 1692/2010; <http://www.obh.hu/allam/eng/index.htm>, accessed 8 December 2011

⁴² Anita Novak: ENAR Shadow Report 2008: Racism in Hungary p14

⁴³ <http://www.misszio.rmk.hu/menekultmisszio/index.php?p=6> accessed 8 December 2011

⁴⁴ www.autonomia.hu accessed 8 December 2011

⁴⁵ www.hajlektalanokert.hu accessed 8 December 2011

VI.ii The political and legal context

In a bid to eradicate homeless persons from the streets of Budapest, the government and the Budapest Capital City Assembly introduced laws that penalise persons for being homeless⁴⁶. According to a municipal law⁴⁷ dated April 27, 2011, anybody found to conduct a “lifestyle of” living in the public areas of Hungary’s capital city Budapest, as well as anybody who stores possessions used in such a lifestyle in public areas may be fined up to 50,000 Hungarian forint. If the fine is not paid, the person found sleeping on the streets is punished by up to 10 days of incarceration.

According to the Ombudsman the adoption of the regulation by the Budapest City Assembly directly criminalises the status of ‘homeless’. This criminalisation results thus in the violation of the right to human dignity.

NGOs have condemned the penalisation of homeless, and called on the government and the Budapest municipality to develop the homeless care and shelter system to effectively provide for people who are homeless.

⁴⁶ Amendment to the Local Government Act

⁴⁷ Ordinance governing the use and order of public areas in the city

VII. Racism and related discrimination in education

VII.i Manifestations of racism and related discrimination in education

The access to suitable and non-segregated education for Roma was still a major challenge in the reporting year. As reported in the previous shadow report⁴⁸ segregation in Hungarian schools is still a serious problem – the widespread stigmatisation of Roma means that many parents, and indeed teachers, would prefer their children not to mix with Roma children in schools, or elsewhere., According to a 2008 report of the Open Society Institute only 60.8% of Roma children in Hungary complete primary school education while 12.9% complete secondary school.⁴⁹

The education of asylum seeking and refugee children is still problematic in Hungary. In its annual Age, Gender, Diversity Mainstreaming (AGDM) Participatory Assessment, UNHCR found that generally, the quality of education and the mentoring of separated children seem to be dependent on the professionalism and benevolence of the school teachers, while at the systematic level the mechanism does not work properly.⁵⁰ Asylum seeking and refugee children are often placed in special preparatory classes. Even if such classes are well organised by offer a special education plan for each student based on their individual educational level, such classes do not necessarily meet the criteria of compulsory education for school age children.

Examples of NGO Good Practice

The **Reformed Church of Hungary** through its refugee and education programme continues to offer high school education and intensive language classes to youth between the ages of 13 and 18⁵¹.

The **Hungarian-Mandarin bilingual primary school** is the only school that takes into account the Chinese migrants cultural background and provides adequate supporting opportunity for their adjustment⁵².

⁴⁸ International Law Research and Human Rights Monitoring Centre: ENAR Shadow Report 2009/2010; Racism and Discrimination in Hungary

⁴⁹ Open Society Institute: International Comparative Data Set on Roma education, A statistical Baseline for Central, Eastern and South eastern Europe (2008)

⁵⁰ Age, Gender, Diversity Mainstreaming (AGDM) Participatory Assessment, <http://www.unhcr-centraleurope.org/en/what-we-do/age-gender-and-diversity-mainstreaming.html>, accessed 8 December 2011.

⁵¹ <http://www.misszio.rmk.hu/menekultmisszio/index.php?p=6>, accessed 8 December 2011

⁵² <http://www.mipex.eu/successful-schoolinghungarian-and-chinese-concepts-learning>, accessed 8 December 2011

The **Komesnky Fund an initiative of ERSTE Foundation and CARITAS Austria** runs an initiative to support the development and education of children and young adults from Roma families with extracurricular tutoring and study sessions as well as leisure activities and therefore also to support their integration and access to the labour market in the future⁵³.

VII.ii The political and legal context

The government is in the processing of reforming the higher education system with the aim of putting a more needs based and efficient system in place. It is expected that the reforms will lead to a reduction in the number of higher education institutions; and the amalgamation of some. A reduction in the number of students in colleges and universities is also expected.

New legislation on education is still being drafted, and it is generating a lot of debate between the two coalition parties who seem to have different policy approaches to reforming the education system.

In Hungary, the migration policy is less elaborate than in many other MIPEX countries and there is a lack of a comprehensive integration strategy, moreover the budget for intercultural education is limited. Newcomers are left alone to decide which school to enter; authorities provide limited and outdated information on this issue. Schools are not required to address newcomers' specific needs, or help them to cope effectively in a diverse society (MIPEX, 2011).⁵⁴

Access to compulsory education for third country citizens has greatly improved. That said, the challenge that still remains is that the language of education is the Hungarian language and not all pupils are fluent in this language.

The NGO community and other civil organisations have called on the government to conduct a consultative process with all major stakeholders, before embarking on reforming the education system.

⁵³ <http://www.erstestiftung.org/project/komenskyfond>, accessed 8 December 2011

⁵⁴ Migration Policy Index; <http://www.mipex.eu/hungary>, accessed 8 December 2011

VIII. Racism and related discrimination in health

VIII.i Manifestations of racism and related discrimination in health

The challenges in regard to health for the vulnerable groups mentioned in this report are twofold; the poor health environment that they reside in, and the inability to access health services because of a lack of health insurance or accessibility.

The majority of the Roma, even those staying in cities, live in areas with poor access to public services, poor infrastructure and high unemployment. Invariably poor housing conditions negatively impact their quality of health and their access to quality health services. In most of these areas, the peoples' living conditions are very poor and their health environment is hazardous.

Access to health services is problematic for some communities due to the fact that these communities live in geographically isolated and/or economically depressed areas. A survey conducted by the Hungarian Delphoi Consulting in 2003 revealed inequalities in access to health care affecting smaller settlements.⁵⁵ Excluding Budapest, 5.9% of the country's population lived in a settlement without a local GP. This number was 6.1% in the case of pensioners or about 128,000 pensioners lived in settlements without direct access to a GP. In the case of Roma, figures indicated that, excluding Budapest, 18.6% of the country's total Roma population or over 100,000 individuals lived in settlements without a local GP. This situation results from the fact that Roma tend to live in small settlements, and their numbers are high in very small villages that are secluded and are becoming predominantly Roma. These settlements have no basic institutions and the non-Romani inhabitants have moved out while poorer Roma have moved in.⁵⁶

Another aspect hindering the access to health services for Roma is the lack of health insurance. In most cases, for one to have health insurance, one needs a job and/or to pay for it privately. However, with almost 90% of Roma adults unemployed and most living below the poverty line; and with worsening racial attitudes, it is becoming even harder to find employment, especially since many Roma lack a decent level of education; it is not a surprise that many in the Roma community have no health insurance. This basically means that these persons are not able to access advanced medical services and care.

Third country nationals as well as those people with international protection in Hungary face the same challenges as the Roma, if they do not hold a health insurance policy. For those holding other kinds of health insurance policies, other

⁵⁵ www.policy.hu/ibolya/policy_paper.pdf, accessed 8 December 2011

⁵⁶ Novak, Anita: ENAR Shadow Report 2008 – Racism in Hungary p20

than the national health insurance policy, access to health services provided by the state may prove to be problematic.⁵⁷

Among asylum seekers, the biggest problem is the access to psychosocial counselling when they arrive to Hungary to seek protection. The access to psychosocial counselling for asylum seekers arriving in Hungary is insufficient, due to the lack of capacity and funds. Additionally, where the services are provided, it is only at the reception centres with no follow-up treatment when the client moves to private accommodation.

The situation for holders of 'tolerated stay status' has not changed since the previous reporting period: they can only access medical care in exceptional and life threatening circumstances.

Migrants are not able to access health services, because they are not official registered at the addresses they are staying at. As mentioned under housing, majority of private landlords do not agree that tenants officially register their place of abode as their address. The Hungarian medical services are divided into districts and general practitioners provide services only for the residents of their allocated district. Since some migrants may not have a formal registered address they are usually refused service provision by general practitioners. It is very difficult to access medical services without insurance coverage.

Access to health services is also hindered by communication difficulties. Many migrants do not speak Hungarian, and this may create problems at hospitals and at the outpatient clinics. Migrants have to depend on the good will of friends and NGOs for interpretation and translation in such cases.

HIV and Hepatitis treatment is provided free of charge by the State and is accessible to everyone in need.

Examples of NGO Good Practice

The Cordelia Foundation continues to provide psychosocial counselling to migrants.⁵⁸

The **Mahatma Gandhi Human Rights Organisation** facilitates migrants' access health services.⁵⁹

⁵⁷ This is a form of protection provided to persons whose application for international protection has been rejected, but they cannot be returned to their country if their expulsion could be to a country where they could be subject to torture or inhumane or degrading treatment or punishment, they could be subject to forced labour, they could be deprived of the right to fair trial, they could be punished without there being any legal basis for this

⁵⁸ www.cordelia.hu accessed 8 December 2011

⁵⁹ www.gandhi.ini.hu accessed 8 December 2011

VIII.ii The political and legal context

The government is in the process of reforming the health care system. According to plans already seen by relevant stakeholders, the access to health services will be more restrictive, and only for those with a valid health insurance policy.

The level of health care provided freely to those not holding health insurance policies will be determined by the economic situation of the country.

IX. Racism and related discrimination in criminal justice

IX.i Manifestations of racism and related discrimination in criminal justice

IX.i.i Policing and ethnic profiling⁶⁰

As previously reported, racial profiling is still common within the law enforcement forces. However, the Hungarian police force is recruiting more officers from minority groups, especially the Roma, and at the same time directing communications with these particular groups in order to improve on the relations between the police and the groups'.⁶¹

However, a survey⁶² by the International Law Research and Human Rights Monitoring Centre (ILRHMC) in 2009 shows that the police have always proved reluctant to treat incidents of violence against persons from particular groups as 'crimes motivated by hate', especially when the attacks have targeted Roma and/or other vulnerable groups. However, in cases where the perpetrators are thought to be Roma targeting Hungarians, the incidents were immediately recorded as racially motivated crimes.

When there were 40 violent attacks targeting the Roma and their property between 2008 and 2009, the police initially refused to consider these crimes as racially motivated.⁶³ However, when a group of Roma established a community-policing group to protect themselves from such attacks, and a non-resident Hungarian was questioned and manhandled by the group, the police immediately registered this as a racial motivated attack targeting Hungarians. The cause of the confrontation was that the car was driving in the area without any headlights on, thus causing suspicion and fear by the community-policing group. Until the time of writing this report, the perpetrators of the attacks against the Roma are yet to be convicted, however, the Roma have been convicted and are serving jail sentences ranging from four to six years for carrying out a racially motivated attack against a Hungarian.⁶⁴

Such a discriminatory way of investigating, charging, trying, and convicting perpetrators as fast as possible seems to be a growing norm when the perpetrator is not a Hungarian, but a Roma or a foreigner. This has led the

⁶⁰ The Open Society Institute defines "ethnic profiling" as the "use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity."

⁶¹ Anita Novák, ENAR Shadow Report; Racism in Hungary, (ENAR, 2008) p32

⁶² Evaluation of questionnaires completed by victims of of racist violence who have approached and reported the attacks to ILRHMC in 2009. More details can be requested from info@nemzetkozijogert.hu

⁶³ <http://www.bbc.co.uk/news/world-europe-11725531>, accessed 8 December 2011

⁶⁴ http://hetivalasz.hu/english_hungary/the-charge-racism-35446, accessed 8 December 2011

members of the Roma community to conclude that justice is not equal to all; and that others are considered more important than the Roma.

Administrative detention has become far stricter: its rules are similar to those used in Hungary's high security prisons. Foreigners who only commit a minor administrative offence have to endure harsher treatment than criminals in regular Hungarian penitentiaries.⁶⁵

During an official visit of the Chinese Prime-Minister in June 2011, demonstrations against his visit were banned and all Tibetans living in Hungary were required to report to the Office of Immigration and Nationality on that Saturday. The Ombudsman found that the prohibition of discrimination had been violated when too many Tibetans living in Hungary were forced to go to the immigration office for „data checking" on the day of the visit of the Chinese Prime Minister.

Examples of NGO Good Practice

The **Hungarian Helsinki Committee** continues to provide legal counselling to victims of racist violence⁶⁶.

The **Roma Press Centre** continues to report on incidents of racist violence targeting the Roma communities⁶⁷.

IX.i.ii Racist violence and crime

During the reporting period violent attacks targeting the Roma and their property continued to be reported. However, the law enforcement authorities have continued to be reluctant to categorise these acts of violence as racially motivated crimes.

The European Roma Rights Centre (ERRC), in a report 'Attack against Roma in Hungary' published in July 2011⁶⁸, states that there were at least 50 attacks against Roma and/or their property between 2008 and July 2011.⁶⁹

⁶⁵ 2009 Report: Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe; UNHCR Regional Representation for Central Europe p33

⁶⁶ www.helsinki.hu accessed 8 December 2011

⁶⁷ <http://www.commmunity.hu/rsk/szerzok/lakatos-elza/> accessed 8 December 2011

⁶⁸ <http://errc.org/cms/upload/file/attacks-list-in-hungary.pdf>, accessed 8 December 2011

⁶⁹ Important facts:

- the attacks took a total of nine lives, including two minors;
- the attacks left dozens of people with injuries, ten of which were life-threatening;
- in at least twelve cases Molotov cocktails were used, in two cases hand grenades;
- in at least twelve cases shots were fired; and
- in at least ten cases Romani property was vandalised.

The political situation has not helped either, with the extremist groups frequently staging marches in mainly Roma dominated areas in eastern Hungary.⁷⁰

It is further reported that attacks against Jewish properties and cemeteries have continued in the reporting period. As of November 2010, there were 212 reported instances of vandalism or destruction of Jewish and Christian properties, 20 in houses of worship and 192 in cemeteries.⁷¹

According to the 2010 Human Rights Report issued by the U.S Department of State,⁷² Jewish organisations expressed serious concern over perceived increase in the public's tolerance for anti-Semitic remarks in public discourse.

Incidences of anti-Semitic views and articles being published have been common in the newspapers⁷³ and on the internet. The majority of the websites that are openly anti-Semitic are far-right websites. Cases of the screening of Nazi propaganda films have also been reported.

During the reporting period, there were few reports of attacks targeting persons of colour. Needless to say, that this could be attributed to two factors; first that this group of people is more vigilant when they are in the streets, and secondly, in those cases when such attacks have happened, the victims do not turn to the police to report the cases; due to the fact that the police does not record nor investigate these cases as racially motivated. 'There is an underreporting of racist attacks, because the victims, who are mainly Roma and persons of colour, either do not trust the police, and treat them as villains and/or due to the fact that nothing will be done. This has led to the rise in the mistrust of the law enforcement authorities'.⁷⁴

⁷⁰ The Jobbik (Hungarian Guard) dressed up in black uniforms frequently marched through towns and villages to raise attention against 'Roma criminality.' For example, On 6 March, Jobbik held a 2 to 3,000 strong march in the village, situated to the north east of Budapest, reportedly invited there 'for the protection of Hungarians' following an alleged incident where an elderly man had committed suicide following harassment by Roma residents. Gabor Vona, the leader of Jobbik spoke of 'Gypsy terror'. Following the march, up to 200 vigilantes from the groups New Hungarian Guard, Civil Guard Association for a Better Future and Vagabonds for the Protection of Hungarians, are alleged to have stayed in the village and harassed and verbally abused local Roma residents. The harassment has caused many Roma families to stop sending their children to school. The groups are also alleged to have shouted outside the houses of Roma residents during the night, made verbal death threats and threatened them with weapons and dogs. The vigilante groups were reportedly marching on the streets in military outfits, and in some cases carrying weapons such as whips and axes.

⁷¹ <http://www.state.gov/documents/organization/160192.pdf>, accessed 8 December 2011

⁷² <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154428.htm>, accessed 8 December 2011

⁷³ Magyar Forum, Magyar Hirlap and Barikad

⁷⁴ International Law Research and Human Rights Monitoring Centre: ENAR Shadow report 2009-2010; Racism and Discrimination in Hungary p25

Examples of NGO Good Practice

The European Roma Rights Centre continues to document and report on cases of racist violence in Hungary.⁷⁵

The Hungarian Helsinki Committee continues to provide free legal counselling and representation to victims of racist violence and attacks.⁷⁶

IX.i.iii Counter-terrorism

On 1 September 2010, the new government established a Counter-terrorism Centre in Budapest. The new centre is directly responsible for investigating acts of terrorism, kidnappings and the hijacking of trains, buses, or other vehicles used in public or cargo transportation or skyjacking aircraft, as well as for the protection of the prime-minister and president. It is also in charge of analysing and evaluating the terrorism risk level in Hungary.

During the reporting period, there was no threat of terrorist attacks from persons and organisations outside Hungary. However, the Hungarian authorities continued to monitor radical and extremist organisations as potential domestic terrorist organisations.

It should be noted that, the new detention regime of asylum seekers seems to target all asylum seekers from Arabic countries in the name of national security. The majority of the asylum seekers in detention, slightly more than 80% originate from Arabic countries.⁷⁷

All in all, more or less than a year after the Counterterrorism Centre began its operations, there is no evidence pointing to the fact that the counter-terrorism measures that have been put in place are directly targeting any specific ethnic and/or racial group.

Examples of NGO Good Practice

The Hungarian Association for Migrants in cooperation with the Hungarian Police is providing social and psychosocial counselling services to detained foreigners⁷⁸

⁷⁵ www.errc.org accessed 8 December 2011

⁷⁶ www.helsinki.hu accessed 8 December 2011

⁷⁷ Evaluation of asylum data, including the number of asylum applications filed while in administrative detention; www.menekultugy.hu/statisztikak.php, accessed 25 August 2011

⁷⁸ www.menedek.hu accessed 8 December 2011

IX.ii The political and legal context

It has already mentioned in the previous chapter that there is an underreporting of racist attacks, especially those targeting the Roma and people of colour.

The Parliament of Hungary declared the denial or trivialisation of the Holocaust a crime punishable by up to three years imprisonment on February 23, 2010. The law was signed by the President of the Republic in March 2010. On June 8, 2010, the newly elected Fidesz-dominated parliament changed the formulation of the law to "punish those, who deny the genocides committed by national socialist or communist systems, or deny other facts of deeds against humanity". The word "Holocaust" is no longer in the law.⁷⁹

Hungary's Criminal Code criminalises incitement to hatred against any national, ethnic, racial group or certain groups of population (Article 269), which is punishable with imprisonment up to three years. The use of "symbols of despotism" including a swastika, an arrow-cross, and hammer and sickle, are punishable by a fine (Article 269/B).⁸⁰

Article 174/B of the Criminal Code criminalises assaults committed because of a victim's actual or perceived belonging to a national, racial, ethnic or religious group: "Any person who assaults another person for being part, whether in fact or under presumption, of a national, ethnic, racial, [or] religious group, or certain groups of the population, or compels him by applying coercion or duress to do, not to do, or to endure something, is guilty of a felony punishable by imprisonment for up to five years."

While under article 174/B (1) such assaults are punishable by up to five years' imprisonment, under 174/B (2) such crimes are punishable by up to eight years if the crime is committed: a) by force of arms; b) with a deadly weapon; c) causing a substantial injury; d) with cruelty towards the injured party; e) in groups; or f) in a criminal conspiracy.

Some articles of the Criminal Code, including those covering murder or grievous bodily harm, expressly grant judges' discretion to take into account the offender's "base motivations", where these are alleged, when sentencing offenders. The sentence for homicide and bodily harm with a "base" motivation is higher than for homicide and bodily harm without such motivation. While a judge may consider racist motivation as a "base motivation" which constitutes an aggravating circumstance, the European Commission against Racism and Intolerance (ECRI) has expressed concern that racial motivation is not specifically mentioned in the law as a form of "base" motivation and that Hungarian law does not include general provisions under which, for all ordinary criminal offences, racist motivation constitutes an express aggravating circumstance. ECRI has noted

⁷⁹ http://en.wikipedia.org/wiki/Laws_against_Holocaust_denial accessed 8 December 2011

⁸⁰ Act IV of 1978 on the Criminal Code

that: “as a result, it is practically impossible to monitor the situation with respect to racially motivated offences in Hungary.”⁸¹ The police also do not use any special procedure in those cases for which there is a clear indication that the crime is/was racially motivated.

There is no readily available and updated data on racially motivated violent crimes. Hungarian legislation does not permit the collection of data by the police based on ethnic lines. ‘There is no effective system for collecting data on violent hate crimes, or that permits even the identification of the ethnicity of the victim of a crime—a key factor in determining if the crime was motivated by bias. The absence of an adequate system for monitoring and public reporting on hate crimes impedes policymakers from seeing and understanding the full scope of the problem and developing adequate responses.’⁸²

Although different mechanisms exist like the Ombudsman’s Office and the Equality Authority to which complaints may be filed, few of the Roma and migrants are aware of this. The NGO perspective is still that there should be more efforts to reach out to the vulnerable communities, including having officers visit the communities to talk about the complaints mechanism.

⁸¹ ECRI 2009 Report on Hungary, Fourth monitoring cycle, 24 February 2009, p. 14

⁸² http://lib.ohchr.org/HRBodies/UPR/Documents/session11/HU/HRF_HumanRightsFirst-eng.pdf, accessed 30 August 2011.

X. Racism and related discrimination in access to goods and services

X.i Manifestations of racism and related discrimination with access to goods and services in the public and private sector

Access to goods and services in the public and private sector is still problematic. The most common feature is when people are hindered from accessing services, because of their background, colour, nationality and/or ethnicity. Unfortunately, it is not uncommon for people with these backgrounds to be denied access to and/or services.

This problem exists at two levels: The outright denial of access to services, and the lack of information on how to access services, in particular how to access goods and services in the public sector. In addition to this, the majority of the victims lack information on the available mechanisms and structures to be used in cases of denial of access to goods and services.

The lack of an efficient integration system for refugees and holders of complementary protection has led to a precarious situation, including homelessness, due to the inability to access social housing and/or to find affordable accommodation.

Migrant children, especially unaccompanied asylum seeking and refugee children still experience difficulties in accessing mainstream child protection services. This could be attributed to the fact that there are no mechanisms in place that take into consideration the special needs of foreign children. In most cases the service providers do not speak any foreign languages and have no training and experience working with children who are not Hungarian. As reported in the previous report, the legal guardianship system, meant to facilitate the wellbeing and welfare of these children, has not improved for the better and is still dysfunctional, and does not take into consideration the best interests of the child. A survey carried out by ILRHMC showed that the majority of the unaccompanied minors do not know nor have they met with their legal guardians.⁸³

According to reports received by the ILRHMC, although, it is not as common as before, it is still common for Roma and people of colour not to be allowed into premises like bars, music clubs and discos. Also according to these received reports, third country nationals and the majority of the Roma community still find it difficult accessing loans from financial institutions and other services like telephone services.

⁸³ Evaluation of questionnaires and results of the survey conducted by ILRHMC in 2010-2011. More details can be requested from info@nemzetkozijogert.hu

Examples of NGO Good Practice

The **Hungarian Helsinki Committee**,⁸⁴ the **Mahatma Gandhi Human Rights Organisation**⁸⁵, the **European Roma Rights Centre**,⁸⁶ **ILRHMC**⁸⁷ are some of a number of organisation are involved in rising awareness on the rights of persons in Hungary, including migrants and Roma.

X.ii The political and legal context

Anti-discrimination law in Hungary offers strong protection, in particular through the Equal Treatment Act⁸⁸ and some amendments to the Hungarian Civil Code.⁸⁹ The Equal Treatment Authority has taken an active role in the prevention of discrimination.⁹⁰ The necessary legal protection framework is in place.

The challenge is to ensure that the prevention and monitoring mechanisms in place are fully functioning. This needs the foresight and full participation of the politicians at both the local and national level. At the moment, there seems to be a lack of courage by politicians to advocate for the rights of the marginalised specially the Roma and migrants for fear of losing votes.

⁸⁴ www.helsinki.hu accessed 8 December 2011

⁸⁵ www.gandhi.ini.hu accessed 8 December 2011

⁸⁶ www.errc.org accessed 8 December 2011

⁸⁷ <http://www.facebook.com/pages/International-Law-Research-and-Human-Rights-Monitoring-Centre/181347355282705#!/pages/International-Law-Research-and-Human-Rights-Monitoring-Centre/181347355282705?sk=info....> accessed 8 December 2011

⁸⁸ Act CXXV of 2003 on Equal Treatment and the promotion of equal opportunities

⁸⁹ Act IV of 1959 on the Civil Code of the Republic of Hungary

⁹⁰ Novák, Anita. ENAR Shadow Report; Racism in Hungary, (ENAR, 2007)

XI. Racism and related discrimination in the media

XI.i Manifestations of racism and related discrimination in the media, including the internet

There are still incidences of some private media outlets continuing to portray the Roma as criminals. This, coupled with the outburst of the radical groups decrying 'gypsy criminality', continues to create prejudices and stereotypes within/among the majority community.

The majority of the journalists do not comprehend the asylum system, and therefore the information they provide about asylum seekers and refugees is, in most cases, misrepresentation which breeds misunderstanding by the host community of the plight of these people, as the majority population resultantly equates members of these groups to criminals and criminality.

Incidences of anti-Semitic views and articles have been common in the newspapers⁹¹ and on the internet. The majority of the websites that are openly anti-Semitic are far-right websites. Cases of screening of Nazi propaganda films have also been reported.

Examples of NGO Good Practice

Hungarian Association for Migrants (MENEDEK)⁹² carried out a public awareness campaign that draws attention to the discrimination faced by migrants, and aims to reduce the prevalence of discrimination.

XI.ii The political and legal context

Hungary passed a new media law that came into effect on 1 January 2011.⁹³ The new law creates a media control body, with members appointed by the ruling party in parliament. All media outlets will be required to register with the body to operate lawfully. The panel will be able to impose fines of up to €700,000 (approximately \$900,000) on media outlets for "imbalanced news coverage," material it considers "insulting" to a particular group or "the majority" or it deems to violate "public morality." "Gross" violations can result in denial of registration. The law also removes legal protection against the disclosure of journalists'

⁹¹ Magyar Forum, Magyar Hirlap and Barikad

⁹² www.menedek.hu accessed 8 December 2011

⁹³ Media Law 2010 (English version), <http://www.scribd.com/doc/46310168/Hungarian-Media-Law>, accessed 8 December 2011

sources, with wide grounds for the media authority to order disclosure. The media law has been widely criticised as undermining media freedom and is incompatible with Hungary's human rights obligations.⁹⁴

⁹⁴ <http://www.eubusiness.com/news-eu/hungary-politics.7uu>, accessed 8 December 2011

XII. Political and legal developments in anti-racism and anti-discrimination

Anti-discrimination law in Hungary offers strong protection, in particular through the Equal Treatment Act⁹⁵ and some amendments to the Hungarian Civil Code.⁹⁶ The Equal Treatment Authority has taken an active role in the prevention of discrimination⁹⁷. The necessary legal protection framework is in place. The main concern is with the implementation and actual protection of the rights in reality.

Hungary has ratified most of the major international instruments for combating discrimination, including the UNESCO Convention against Discrimination in Education, ILO Convention No. 111, and the International Convention on the Elimination of Racial Discrimination. The country is also a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The country has signed but not yet ratified Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The specialised body for the promotion of equal treatment irrespective of racial or ethnic origin (Equal Treatment Authority) started its operation on 1 February 2005. The Authority is a public administrative body with the overall responsibility to ensure compliance with the principle of equal treatment:

When there is a case of discrimination, victims may choose from among a number of options to seek remedy, depending partly on the field where discrimination has occurred.

They can turn to:

- the civil court;
- the labour court (if discrimination occurs in connection with employment);
- the Equal Treatment Authority (since 1 February 2005);
- the administrative bodies authorised to sanction discrimination in their specific fields (e.g. the Consumer Protection Inspectorate in the field of access to goods and services or the Labour Inspectorate in the field of employment);
- to the local notary (in order to initiate a petty offence procedure in a number of fields, such as health care or employment).

⁹⁵ Act CXXV of 2003 on Equal Treatment and the promotion of equal opportunities

⁹⁶ Act IV of 1959 on the Civil Code of the Republic of Hungary

⁹⁷ Novák, Anita. ENAR Shadow Report; Racism in Hungary, (ENAR, 2007)

It is possible for a victim of discrimination to initiate the procedure of the Equal Treatment Authority, or any other administrative organ before bringing a lawsuit based on the Civil Code or the Labour Code. If however, one starts a case before an ordinary or a labour court, administrative organs, including the Equal Treatment Authority will not conduct proceedings.⁹⁸

In the relationship between the procedures of the different public administrative authorities the key principle is that it is up to the victim to decide which authority he/she wishes to turn to. In order to avoid double procedures, the Authority shall inform other organs, and other organs shall inform the Authority, about the initiation of a procedure into a case of discrimination.

Amnesty International has openly criticised and expressed its concerns regarding some provisions of the new constitution. In particular Amnesty International finds that;

The introduction of the protection of life from conception (Article II), the definition of marriage as a union between a man and a woman (Article L), the provision allowing for life imprisonment without the possibility of parole (Article IV) and the exclusion of sexual orientation from the protected grounds of discrimination (Article XV.2) are particularly problematic.

Article II of the new Constitution may result in the violation of the principle according to which measures undertaken to protect prenatal life should not undermine the rights of women and girls, including their rights to life, to attain the highest standards of physical and mental health, to private life, to autonomy and to equality and non-discrimination as enshrined in several treaties signed and ratified by the Republic of Hungary such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC).

Article L of the new Constitution may pave the way to the introduction of an explicit ban on same-sex marriages which contravenes international and European anti-discrimination standards, in particular in relation to the enjoyment of the right to marry and the right to found a family, as enshrined by Article 23 of the ICCPR, which explicitly imposes the obligation on states parties not to discriminate with regards to any of the rights set out by this human rights covenant. The European Court of Human Rights has stated that same-sex couples should also enjoy the right to marry and the right to found a family enshrined by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

⁹⁸ Kádár, András. *Executive Summary Country Report Hungary 2010 on measures to combat discrimination*, http://www.non-discrimination.net/content/media/2010-HU-Summary%20country%20Report%20LN_FINAL.pdf, accessed 8 December 2011

Life imprisonment without the possibility of parole (Article IV) could result in a violation of international standards relating to the prohibition on cruel, inhuman or degrading treatments, set out by Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the ECHR. The European Court of Human Rights has indeed suggested that life imprisonment without the possibility of parole may violate the prohibition of cruel and inhumane treatment.

The exclusion of sexual orientation from the protected grounds of discrimination may lead to narrowing down the scope of Hungary's anti-discrimination law, which prohibits discrimination on the grounds of sexual orientation and gender identity in the areas of employment, education, housing, health and access to good and services. This would also be in breach of European anti-discrimination standards as set out by Article 21 of the European Charter of Fundamental Rights of the European Union and Directive 2000/78 (Framework Employment Directive).⁹⁹

Example of NGO Good Practice

The Hungarian Helsinki Committee¹⁰⁰ and the Legal Defence Bureau for National and Ethnic Minorities¹⁰¹ continue to providing legal counselling and representation in discrimination cases

⁹⁹ Amnesty International Public Statement, *Hungary: Newly adopted Constitution at odds with human rights* <http://www.amnesty.org/en/library/asset/EUR27/006/2011/en/b528abb2-32a6-4615-858a-5eef13f369f/eur270062011en.html>, accessed 30 November 2011.

¹⁰⁰ www.helsinki.hu, accessed 8 December 2011

¹⁰¹ www.neki.hu, accessed 8 December 2011

XIII. Migration and integration

There is still no national policy and/or action plan on the integration of migrants, in particular those from outside the European Union and Europe. There is no system in place either, to facilitate the integration of migrants. This could be attributed to three aspects and developments that are; the policy makers consider Hungary to have a low migration population: that Hungary is a transit country for people trying to get to other parts of Europe; and that the migration discourse in the country mainly concerns the situation of ethnic Hungarians in the surrounding countries. The current priority and emphasis of the government is migration management.

Hungary has no comprehensive social, economic or political strategy addressing migration, but rather handles the matter through defensive measures, including border control; and the control of entry to and stay in Hungary.

In May 2010 the new Hungarian Parliament approved a law making it easier for ethnic Hungarians in the neighbouring countries get Hungarian citizenship. The law¹⁰² that came into effect at the beginning of 2011 allows ethnic Hungarians to apply for citizenship without requiring a stay in Hungary if they have Hungarian ancestry, and speak Hungarian.

Hungary does not have a framework in place to facilitate the integration of refugees. Although the Asylum legislation stipulates the rights and benefits of the persons granted international protection in Hungary, the lack of a mechanism to effectively implement these provisions impedes the integration process. 'There is a lack of targeted services for refugees that address specific needs and complement mainstream support services.'¹⁰³

On being granted protection,¹⁰⁴ accommodation and pre-integration services¹⁰⁵ are provided at the pre-integration centre in Bicske for a period of a maximum of one year. 'Once refugees move out of Bicske pre-integration centre, they must rely on fragmented, under-funded and project based refugee support services in Budapest run by NGOs. These cannot provide solutions to what are often structural problems of integration requiring strategic, cross-departmental response.'¹⁰⁶

¹⁰² Act LV of 1993 on Hungarian Citizenship and its amendments

¹⁰³ UNHCR: UNHCR Note on Refugee Integration in Central Europe, Budapest, April 2009

¹⁰⁴ Refugees and beneficiaries of subsidiary protection

¹⁰⁵ Language classes, Cultural orientation programmes, assistance in finding employment and private accommodations

¹⁰⁶ Refugee Homelessness in Hungary; UNHCR Regional Representation for Central Europe, Budapest, Hungary, March 2010, p10

In order to have an efficient integration system in place, the participation of local governments and municipalities is a necessity. It is the local governments that are in charge of providing many social support services to residents, including beneficiaries of international protection; therefore the need for close co-ordination with the Office for Immigration and Nationality (OIN) which is the responsible National Refugee Agency.

Hungarian legislation¹⁰⁷ provides for and guarantees the right to family union. In this respect migrants are able to unite with the families, if and when the criteria are fulfilled. For the beneficiaries of international protection:

there are many difficulties with the realisation of the right to family unity as it affects refugees.....UNHCR regularly receives requests for assistance and intervention with relevant authorities from refugees unable to reunite with family members remaining in the country of origin or first asylum. This might be often caused by governments not recognising the validity of travel documents issued by certain countries of origin,¹⁰⁸ technical difficulties with granting visas to family members living in countries where the country of asylum has no representation as well as difficulties with financing the cost of travel of family members to Europe. Problems might further arise due to a requirement to provide proof of ability to independently support family members if the family reunification application is submitted after the expiry of a deadline from status recognition, as well as the use of restrictive criteria in defining who is a family¹⁰⁹ member.¹¹⁰

In May 2011 the Prime Minister, Viktor Orban, and the head of the National Roma Self-Government (ORO), Florian Farkas, signed a framework agreement on promoting the Roma minority's social inclusion in Budapest . A top priority of the framework agreement is that least 100,000 jobless Roma will have employment by 2015. An overall restructuring in the education system is expected to enable 20,000 young Roma learn marketable skills in 50 vocational training schools. The objective furthermore is to have at least 10,000 Roma youth complete secondary school education and allow another 5,000 talented young Roma complete studies in higher education. Adult education will be offered to 50,000 Roma workers to acquire more marketable skills and an additional 80,000 adult Roma will be trained in basic skills, such as writing, reading and IT. An

¹⁰⁷ Act I of 2007 on the Entry and Residence of Persons with the Right of Free Movement and Residence; Act II of 2007 on the Entry and Stay of Third Country Nationals; and Act LXXX of 2007 on Asylum

¹⁰⁸ Hungary does not recognise Somali travel documents

¹⁰⁹ According to Hungarian legislation a family member is 'the husband/wife, minor child (including adopted child and the child of spouse), parents (in case of refugees and beneficiaries of subsidiary protection under 18 years of age), otherwise only economically/socially dependent parents; brothers/sisters or other direct-line relatives if they cannot provide for themselves due to health reasons.

¹¹⁰ UNHCR: UNHCR Note on Refugee Integration in Central Europe, Budapest, April 2009 p33

important additional objective is also to ensure health screenings to at least 150,000 Roma.¹¹¹

At the time of writing this report, the government was in the process of elaborating a Comprehensive National Roma Inclusion Action Plan and a Roma Strategy to complement all other Roma action plans that are in place. 'Previous governments adopted a number of measures with the Roma Decade Framework and National Development Plan to eliminate racial discrimination against the Roma,¹¹² however the main focus was on access to housing and the elimination of segregated settlements.¹¹³

An evaluation of the different social inclusion action plans, initiatives and programmes shows mixed results. There is 'a clear disparity seen between activities partaken in the big cities and those in the countryside, in those areas mainly inhabited by Roma'¹¹⁴.

As reported in the previous years, the target group for the inclusion programmes is and has always been the Roma; and does not take into account migrants. This said, some of the elements of the different social inclusion initiatives could easily be applied when it comes to migrants as well.

Examples of NGO Good Practice

The Legal Bureau for National and Ethnic Minorities continues to provide legal counselling and representation to Roma who are victims of discrimination.¹¹⁵

Foundation of Roma Civil Rights and Legal Protection continues to provide legal counselling and advice to Roma victims of discrimination.¹¹⁶

¹¹¹

http://www.romnet.hu/english/2011/05/20/pm_orban_roma_leader_sign_roma_inclusion_framework_agreement

¹¹² Novak, Anita: ENAR Shadow Report 2007 – Racism in Hungary p36

¹¹³ Housing and social integration programme. In the previous government, the Ministry of Social Affairs and Labour required towns and cities to elaborate an integration development plan incorporating an anti-segregation plan in order to be eligible for urban development funds.

¹¹⁴ ILRHMC: ENAR Shadow Report 2009 /2010 – Racism and Discrimination in Hungary p35

¹¹⁵ www.neki.hu, accessed 8 December 2011

¹¹⁶ <http://www.rpa.ingyenweb.hu/>, accessed 8 December 2011

XIV. National recommendations

Employment

- Beneficiaries of temporary protection should have unimpeded access to the labour market;
- Information on the role and activities of the labour/employment offices should readily available;
- Migrants, especially refugees should have access to the services of the labour offices;
- Private employment agencies should be encouraged to have special programmes targeting the recruitment of migrants and Roma;
- Law enforcement forces should be encouraged to recruit migrants as well;

Housing

- Refugees should have access to the homeless shelters and support services;
- Migrants should have access to social housing;
- Infrastructure in the undeveloped and underdeveloped areas should be included as priority areas for development by the government

Education

- Refugee parents should have access to information on childhood education opportunities available;
- The procedure to recognise educational certificates acquired outside Hungary should be less costly, simplified and less time consuming;
- The number of hours for the free language classes provided to beneficiaries of international protection should be increased, and the special needs of the students should taken into consideration;
- Hungarian language classes should be tailored to the needs of the target groups;
- Beneficiaries of international protection should be provided with detailed information on available higher education and vocational training opportunities;

Health

- Access to health care provided by the state should be available to all in need;
- The provision of health services should be linked to a registered address;
- A special fund should be established to pay for the medical costs of the uninsured migrants and other vulnerable groups;

Criminal justice

- More targeted attempts to recruit more people from a minority background into the law enforcement forces should be encouraged and continued;
- Co-operation between the law enforcement forces and; minority and migrant organisations should be encouraged and supported; in order to curtail racially biased policing;
- Increase cooperation between the Police and Roma and migration communities;
- Asylum seekers should not be criminalised and should be detained only in exceptional circumstances;
- A mechanism to collect data on racially motivated crimes should be put in place;
- Advanced training in investigating and prosecuting racially motivated crimes should be provided to the police and public prosecutors

Access to goods and services

- Child protection officers should be trained on the rights of migrants;
- The protection of unaccompanied minors should be effectively mainstreamed in the national child protection system;

Media

- Politician and community leaders should condemn the use of media to incite racially motivated crimes;
- Hungary should prosecute media outlets and internet providers that allow their infrastructure to be used to publish hate and racist speech that incites people to commit hate crimes

General

Anti-racism and anti-discrimination

- Information on the available complaints mechanisms and structures should be availed to the vulnerable groups;
- Migrants should be encouraged to establish self-help community and support organisations;
- Public awareness on the existing complaints mechanisms should be initiated

Migration and integration

- Hungary should put a comprehensive social inclusion strategy for the Roma and migrants in place;
- Hungary should put a comprehensive migration policy in place which takes into consideration the specific needs of migrants, especially refugees and other beneficiaries of international protection;
- Hungary should enact legal provisions that would facilitate the family reunification of those person from countries whose travel documents Hungary does not recognise;

- Sustain NGOs providing services to/for migrants;
- A multi-sectoral approach should be used in the integration of migrants;
- Current initiatives need to be evaluated and revised accordingly, in order to reach out to as many people from the vulnerable groups as possible;
- Migrants should be considered as equal partners and not as objects and subjects of integration projects;
- Conduct studies to improving understanding of migrant patterns in Hungary and the region as a whole;
- Strengthen links between migrant organisations and professional organisations;
- Encourage the state to involve migrants in the planning and delivery of interventions and services to migrants communities;
- Local authorities should be involved and consulted when planning and initiating integration activities for migrants;
- Migrants, including persons with international protection should encouraged and facilitated to play a more active role in integration initiatives;
- The integration system of refugees should be tailored to take into consideration the individual needs of the beneficiaries;
- Public information activities targeting the host community should be encouraged;
- Beneficiaries of tolerated stay status staying for more than three years should be allowed to access the existing integration services and benefits available to refugees and beneficiaries if subsidiary protection;
- Public authorities should endeavour to provide services in multiple languages;
- Communication between the different authorities dealing with integration matters should be improved;
- Integration activities should be supported and facilitated, other than developing a top-down approach in integration matters.

XV. Conclusion

Social inclusion and integration of the Roma and migrants is still a serious matter for concern in Hungary. Roma continue to face social exclusion, with more people from the Roma communities being unable to access adequate housing, employment, education, health and social services.

Additionally, as has been reported in the last two years, due to the dysfunctional and inefficient integration system and structure, migrants continue to face severe challenges accessing the services that would enable them to successfully integrate in Hungary.

There is a serious need for the government and all stakeholders to stop paying lip service to the matter and actively engage the concerned communities in developing joint initiatives and action plans.

The current government has spent the better part of the time since coming to power in implementing its political agenda, without paying attention to the specific needs of the vulnerable groups mentioned in this report.

Using the absolute majority in parliament, the government introduced and passed legislation, including the amendment of the Constitution, which has been widely criticised as violating Hungary's international human rights obligations.

It is vital that the government spearheads and facilitates respect for human rights, and upholds democratic and constitutional principles.

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Annex 1: List of abbreviations and terminology

AGDM - Age, Gender and Diversity Mainstreaming
BÁH – The Hungarian Office for Immigration and Nationality Centre
CEU – Central European University
ENAR – European Network Against Racism
ENAR Hungary – European Network Against Racism National Coordination in Hungary
ERRC – European Roma Rights Centre
ETA – Equal Treatment Act (Hungary)
FIDESZ – Hungarian Civic Union
FRA – European Union Agency for Fundamental Rights
HHC – Hungarian Helsinki Committee
HUF – Hungarian Forint (Currency)
ILRHMC – International Law Research and Human Rights Monitoring
KDNP – Christian Democrats Peoples’ Party
KSH – National Central Statistical Office (Hungary)
LGBT - Lesbian, Gay, Bisexual and Transgender
MENEDEK – Hungarian Association for Migrants
MEP – Member of the European Parliament
MSZP – Hungarian Socialist Party
NEKI – National and Ethnic Minority Office
NGO – Non Government Organisation
OIN – The Hungarian Office for Immigration and Nationality
OSI – Open Society Institute
TCN – Third Country Nationals
UNHCR – United Nations High Commissioner for Refugees
UNHCR RRCE – United Nations High Commissioner for Refugees Regional Representation for Central Europe

