



European network against racism

# ENAR Shadow Report 2009-2010

## ENAR SHADOW REPORT 2009/2010

**Racism and Discrimination in Hungary**

**The 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.

Published by the European Network against Racism (ENAR) in Brussels, March 2011, with the support of the Open Society Foundations, the Joseph Rowntree Charitable Trust. and the Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

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The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA-EEA and EU candidate and pre-candidate countries.

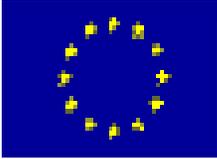
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1. providing analysis and policy advice on PROGRESS policy areas;
2. monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;
3. promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
4. relaying the views of the stakeholders and society at large

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## I. Executive summary

This report provides evidence that the lives of the disadvantaged and vulnerable groups has not changed for the better since the last report. The human rights, of particularly disadvantaged and vulnerable communities are under threat and have become victims of the political and economic crisis the country faced in the reporting period.

The upsurge in anti-Roma sentiment and rhetoric resulted in far-right organisations and/or their affiliates gaining representation in both the national and European parliaments. The environment also led to an escalation in racist violence and attacks against the Roma, and property owned by Jews and Jewish organisations.

It is therefore recommended that:

- Politicians and community leaders should condemn racist acts when they occur and make clear that there is zero tolerance for violent hate crimes;
- The national criminal code should be strengthened to cover all forms of bias-motivated violence and hate crimes;

In the name of security, the law enforcement authorities with the tacit support of the government put in place a strict detention regime for asylum seekers. Such a regime denies access to the asylum seeking procedure and adequate reception conditions to those persons who are in need of international protection. The time of detention is currently being reviewed with the aim of increasing it from six to 12 months.

It is therefore recommended that:

- Counter terrorism measures should have a human rights based approach; and not lead to a violation of human rights.

The Roma and migrants continue to be unable to access those services that may facilitate integration and social inclusion. Roma continue to face social exclusion, with more persons of the Roma communities unable to access adequate housing, employment, education, health and social services.

Migrants continue to face severe challenges accessing those services that would enable them successfully integrate in Hungary. For example, the increase in the number of homeless refugees highlights the difficulties refugees face in accessing adequate and affordable housing.

It is therefore recommended that:

- All social inclusion initiatives actively involve grass root organisations, that are directly in contact with the beneficiaries;
- Social inclusion initiatives aim at empowering the target groups;

- Migrants should be considered as equal partners and not as objects and subjects of integration projects;
- Local authorities should be involved and consulted when planning and initiating integration activities;
- Migrants, including those who have international protection should be 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;
- 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;

## II. Table of contents

I. Executive summary.....	4
II. Table of contents .....	6
III. Introduction .....	7
IV. Communities vulnerable to racism and discrimination.....	9
V. Manifestations of racism and religious discrimination.....	13
V.i Employment .....	13
V.ii Housing .....	17
V.iii Education.....	20
V.iv Health.....	21
V.v Policing and ethnic profiling.....	24
V.vi Racist violence and crime.....	25
V.vii Access to goods and services in the public and private sector.....	26
V.viii Media, including the internet.....	28
VI. Political and legal context .....	29
VI.i Anti discrimination .....	29
VI.ii Migration and integration .....	30
VI.iii Criminal justice .....	32
VI.iii.i Racism as a crime .....	32
VI.iii.ii Counter terrorism .....	33
VI.iii.iii Ethnic profiling.....	33
VI.iv Social inclusion.....	34
VII. National recommendations .....	36
VII.i General .....	36
VII.ii Anti discrimination .....	36
VII.iii Migration and integration .....	36
VII.iv Criminal justice .....	37
VII.iv.i Racism as a crime .....	37
VII.iv.ii Counter terrorism.....	37
VII.v Social inclusion .....	37
VIII. Conclusion.....	38
IX. Bibliography.....	39
X. Annex 1: List of abbreviations and terminology .....	40

### III. Introduction

The period covered in this report was characterised by the continuing tense political environment leading to continual rise in right leaning political representation in Hungary. The European Parliament elections held mid-2009; and the national elections in April 2010 elected more right wing representatives than ever since the political changes in the early 1990s, which are openly known for their anti-Roma and anti-migrant rhetoric<sup>1</sup>.

The tense political environment in 2009 was not helped by the resignation of the then Prime-Minister Ferenc Gyurcsany, whom the then opposition parties blamed for most if not all ills of the Hungarian society and the state.

The worsening economic situation did not help, but instead acted as the main instigator of the rise in the negative sentiments against the Roma, who were openly branded by the far-right and nationalist parties as a scourge on the Hungarian society and parasites living on/at the expense of the hard working majority Hungarian community. This led to an escalation in racist violence and attacks against the Roma, and property owned by Jews and Jewish organisations. A number of Roma homes and families were attacked, some of these attacks led to the death of Roma persons including children<sup>2</sup>.

The wave of dissatisfaction with the former MSZP – SZDSZ governing coalition favoured the then opposition. The FIDESZ – KDNP alliance sent more MEPs<sup>3</sup> to the European Parliament and won the national parliamentary elections held in April 2010 with a three-third majority<sup>4</sup>, 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 to enshrine in the new constitution that marriage is strictly a relationship between a man and a woman.

The two mentioned elections also witnessed the entry into both parliaments of the far right party, the Jobbik<sup>5</sup>. This was a culmination of the rising tide of racist propaganda and views in the reporting period.

The detention of persons in need of international protection drastically increased since the beginning of 2010, but in particular since mid-April 2010. More temporary detention centres have been opened up to accommodate the

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<sup>1</sup> The Hungarian Guard known for its anti-Roma sentiments got three representatives elected to the European Parliament and 47 representatives to the National Parliament

<sup>2</sup> According to the Desegregation Foundation, there were 68 anti-Roma attacks including 11 fatalities between January 2008 and June 2009

<sup>3</sup> Out of 22 Hungarian MEPs 14 represent the FIDESZ – KDNP alliance

<sup>4</sup> The FIDESZ – KDNP Alliance has 268 members of parliament out of a total 386

<sup>5</sup> Jobbik has 3 MEPs and 47 members of parliament in the Hungarian Parliament.

increasing numbers of asylum seekers, whom the government accuses of misusing the asylum procedure system, and also that they could be a possible risk to public order and security. The majority of those being detained are from Arab states in Northern Africa and the Middle East.

The situation and opportunities for persons with international protection has not improved since the last report. Research conducted by the UNHCR Regional Representation in Central Europe towards the end of 2009, revealed a worrying and growing phenomenon of persons granted international protection in Hungary becoming homeless and with no access to social benefits and services, including homeless shelters.

## 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<sup>6</sup>, migrants<sup>7</sup> 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 that 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, with authoritative estimates putting their number between 400,000 and 600,000. 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<sup>8</sup>.

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 hurdle. This is evident in the high numbers of those with low skills, unemployed, and those facing difficulties accessing the social and health services within the Roma community. Nationalists and far-right groups continued to target Roma and other dark skinned persons, mostly foreigners.

### Third Country Nationals

The situation reported in the last shadow report has not changed. Immigration in Hungary is still insignificant, thus stereotypes of immigrants are not shaped by foreigners but by a fear of the unknown, as well as the 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. In the past few years, the right has regularly sounded the alarm against the arrival of more than 1 million non-European immigrants, primarily from Asia. 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

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<sup>6</sup> Roma, the Romani and Gypsy refer to the same ethnic group in this report.

<sup>7</sup> 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.

<sup>8</sup> Fact Sheets on Hungary: Ministry of Foreign Affairs Budapest, 2004.

immigrants is one of the lowest in Europe. Once concrete 'evidence is provided', the yet unfocused prejudice may prove to be a perfect breeding ground for a successful anti-immigrant policy.

Statistical data from the Office of Immigration and Nationality (OIN) show that there are slightly more than 83,000 third country nationals officially registered as holding some form of legal residency in Hungary by 31 December 2008<sup>9</sup>.

Status	Number of persons
Immigration permit	47,205
Permanent residence permit	28,522
Residence permit	15,304
EEA residence permit	30,579
Registration certificate	48,527
Permanent residence card	6,560
Third-country national family member of a Hungarian citizen	4,733
Third-country national family member of an EEA citizen	322
EC permanent residence permit	242
National permanent residence permit	2,568
Permanent residence permit with limited validity	6
<b>Total</b>	<b>184,568</b>

\*Source: OIN<sup>10</sup>

The situation concerning third country nationals has not improved. They continue to face discrimination, especially in accessing social and health services; and adequate 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 4,672 asylum applications in 2009<sup>11</sup>, an increase of 49.8% compared to the previous year<sup>12</sup>. At the same time, more persons were granted international protection compared to the previous 2 years. The public attitude towards asylum seekers and persons with international protection is still negative. Asylum seekers are commonly associated with criminals, and considered a threat to the security of Hungarians. Since 2000 when the Asylum legislation was amended and the geographical reservation on persons granted protection was removed, the number of asylum seekers<sup>13</sup> and

<sup>9</sup> This is the last time the data was updated

<sup>10</sup> [www.irmbah.hu](http://www.irmbah.hu): Number of immigrants, persons with permanent residence permit and staying longer than three months, accessed 1 May 2009

<sup>11</sup> [www.irmbah.hu](http://www.irmbah.hu): There were 4672 new asylum applications: 166 persons were granted refugee status, 88 persons granted subsidiary protection and 42 persons granted tolerated stay status, accessed 10 May 2010

<sup>12</sup> There were 3118 asylum applications in 2008

<sup>13</sup> Largest numbers of asylum seekers in 2009 came from Serbia, Kosovo, Afghanistan, Somalia, Turkey, Georgia and Iraq

persons provided international protection from beyond Europe has steadily increased.

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.

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.

### **Stateless Persons**

A stateless person is someone who is not a national or citizen of any State. In principle, States are responsible for ensuring protection to their citizens, but in general stateless person cannot claim the protection of any State.

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

To be officially admitted to the statelessness determination procedure, one has to be lawfully residing in Hungary. Such a procedure leaves people in need of protection, but not lawfully resident in Hungary in limbo.

The number of stateless persons in Hungary is unknown. Currently there are about 64 recognised stateless persons, but the UNHCR estimates the number to be at 241<sup>14</sup> or more that would qualify for the status, if the access to the statelessness determining procedure was not so restrictive. Stateless persons are not entitled to protections and benefits provided to citizens and all other persons provided international protection in Hungary.

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<sup>14</sup> <http://www.unhcr-budapest.org/index.php/basic-facts>, accessed 24 June 2009

### **Jewish Population**

According to the 2008 Human Rights Report issued by the U.S Department of State, the Federation of Jewish Communities in Hungary reported that there had been an increase in anti-Semitism compared to 2007 and expressed particular concern over the publication of anti-Semitic articles in the national newspaper Magyar Hirlap. They associated the increase with anti-Semitic groups who took advantage of widespread discontent over the country's economic difficulties<sup>15</sup>.

### **Women and Children**

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

Women and children, especially those of minority and/or foreign background are commonly victims of multiple-discrimination, including within their 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 and women wanting 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 experience difficulties in returning to the labour market. 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<sup>16</sup>.

### **Persons with Disabilities**

Persons with disabilities 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.

### **Lesbian, Gay, Bisexual and Transgender People**

Continuous prejudice against Lesbian, Gay, Bisexual and Transgender (LGBT) people has led to isolation and harassment. LGBT people face constant threats from extreme right wing organisations, and the public in general. Violence and abuse directed at LGBT continues to be a problem.

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<sup>15</sup> [www.state.gov/g/drl/rls/hrrpt/2008/eur/119083.htm](http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119083.htm), accessed 19 May 2009

<sup>16</sup> Hungary at Employment Week 2004: Equal Opportunities for All p5

## **V. Manifestations of racism and religious discrimination**

Statistical data is not readily available and/or not updated. However, surveys and investigations by civil organisation highlight the problems and difficulties faced by vulnerable communities and groups in accessing employment, housing, education, health, goods and services in the public and private sector.

Incidences of policing and ethnic profiling, racist violence and crime; racist media including the internet are not officially recorded, but it is a common occurrence in 2009 as in the past years.

The problems and difficulties should be viewed as a chain of events and not as independent components. In one way or another, the inability to access, one of the services has an impact on the other; hence, they are interwoven to providing an overview picture of the level and rate of racism and discrimination in Hungary.

### **V.i Employment**

Although the Constitution and existing legislation provide for full equal rights, access to these rights tend to disfavour disadvantaged groups including the Roma, asylum seekers, refugees, women, and the disabled. However, difficulties arise in the implementation of the rights, for example in the labour market sector. Minorities and other vulnerable groups continue to face difficulties accessing employment for various reasons interlinked to their race and physical characteristics. The continuing economic situation due to the global economic and credit crisis has had a greater impact on disadvantaged people and groups, who already had difficulties accessing employment prior to the crisis.

Young people from marginalised communities have been most affected group in the labour market. Youth unemployment, especially among vulnerable groups is higher than average.

### **Roma**

Roma continue to face both a disproportionately high rate of unemployment and discrimination in access to employment. Among all the disadvantaged groups and communities, the Roma have the hardest hurdle to cross when accessing employment. A number of variables including lack of and/or low level of education, the lack of skills, the physical health conditions of Roma, and the area of residence negatively affect access to employment. In most cases Roma end up getting menial jobs, the kind of manual jobs that no one else wants to do and the pay is always low.

The increasing cost of living since the change of the political system in the early 90s has pushed the Roma to the peripheral of society. Roma commonly reside in overcrowded areas, in most cases at the outskirts of bigger cities and town, in places where jobs are hardly available, the transport and communication systems

are dysfunctional, thus there is a difficulty in accessing jobs located a distance from these areas. There is a link between the levels of unemployment, underemployment and remuneration and with areas where minorities, especially the Roma commonly reside.

In the labour market, Roma workers have frequently faced discrimination in recruitment, based on 'statistical evidence' of their inferior labour discipline and lower labour productivity, or the prejudices of enterprise managers and fellow workers, regardless of the personal characteristics of the job applicant. Labour departments were thus able to place Roma in jobs unattractive for other people due to bad working conditions, heavily physical labour or poor remuneration<sup>17</sup>.

It is common for Roma not to be employed, because members of the majority community do not want to employ them, giving flimsy reasons like the Roma are not to be trusted, the Roma are criminals and are lazy parasites. Right wing organisations like Jobbik and the Hungarian Guard constantly refer to Roma as the source of rampant criminality in the country.

### **Third Country Nationals**

The situation of third country nationals accessing employment has not shown any major changes since the last report. Although the economic recession has had an impact, this has not been significant enough to lead to massive employment practices that discriminate against this vulnerable group.

As reported in the 2008 report, major factors that continue to impede on accessing employment by third country nationals are still the unwelcome attitude of the host community, the undeveloped and/or underdeveloped integration structures for third country nationals, the lack of interagency communication and coordination among agencies and authorities that handle matters pertaining to third country nationals; and the lack of recognition of educational certificates acquired outside Hungary, particularly outside the European Union (EU).

Due to the economic recession, even in those cases where unemployed third country nationals are registered with the labour offices and a job opportunity arises, priority has been given to Hungarian citizens. This is regardless of the fact that the third country national has been registered as unemployed for a longer period. Such favouritism towards citizens against non-citizens is an example of discrimination.

Last and not least, the inability for third country citizens' to access relevant information on the employment process, procedure and available opportunities has a major impact.

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<sup>17</sup> Ethnic Minorities in Central and Eastern Europe: ILO-CEET Report No. 19 p4, 1997

### **Asylum seekers, refugees and other people with international protection**

For refugees the lack of basic knowledge of Hungarian poses a major obstacle to finding employment in Hungary. This could be attributed to inadequate arrangements for Hungarian language tuition and lack of opportunities in the local community at Bicske<sup>18</sup> reception centre and/or once refugees moved to private accommodation.

The difficulties endured in accessing employment has led to an increase in the number of those 'who have travelled abroad to visit friends or family and tried to find employment in the informal sector. The decision to engage in onward movements is linked to survival concerns rather being motivated by aspirations for economic betterment'<sup>19</sup>.

Even those persons with qualifications find it difficult accessing the job market, because the process of recognising diplomas acquired in countries of origin and/or habitual residence is very slow and lengthy. Additionally, in most cases the recognition of a diploma necessitates that the applicant sit an exam, in Hungarian. 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 to the country.

Persons with a tolerated stay status require a work permit, before they can work. However, the work permit is mostly given to persons with more than 1 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.

The inability for recognised refugees and beneficiaries of subsidiary protection to access vocational training in the pre-integration centre or outside the centre, which could potentially develop their skills and eventually contribute to finding employment in Hungary also leaves them in a state of joblessness.

### **Age**

Pensioners experience problems accessing suitable employment at a reasonable salary. It is common to find that employed pensioners are being underpaid yet work longer hours. The situation is worse for those pensioners who are at the same time Roma, women, and persons of colour and/or disabled. They find it very difficult to access employment/part time employment.

### **Statistics**

Out of all the complaints investigated by the Equal Opportunity Authority in 2009, 47.8% were related employment discrimination. Within the category 23.8% were

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<sup>18</sup>Pre-Integration reception centre where recognised refugees and persons granted subsidiary protection stay for 6 months after being granted protection, before moving into private accommodations

<sup>19</sup>Refugee Homelessness in Hungary; UNHCR Regional Representation for Central Europe, Budapest, Hungary, March 2010, p18

related to age, 19.0% to dissenting opinion to that of the employer, 9.5% to motherhood, 9.5% belonging to an ethnic minority, 4.8% based on sexual orientation, 4.8% belonging to an interest representation; and 28.6% based on gender. According to the European Union Minorities and Discrimination survey only 31% of Roma at the time of the survey were employed in paid jobs.

### **Case**

A woman of Roma (Sinti) origin applied for an advertised position at a bakery. The representative of the employer rejected her application, explaining that work colleagues would not like to have a Gypsy co-worker. After an NGO submitted the case to the Equal Treatment Authority the bakery agreed to pay the woman financial compensation<sup>20</sup>.

In another case a refugee from Iraq, who had applied for a job in a restaurant was not recruited, because of his insufficient knowledge of the Hungarian language, even though knowledge of Hungarian was not a prerequisite. The employer later agreed to reconsider the decision, if the applicant was the best candidate.

### **Examples of NGO Good Practice**

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 for an internship. Most participants can be employed after the internship period.

The International Law Research and Human Rights Monitoring Centre is conducting a mapping study on access to employment by non-European residents in Hungary.

The Government and civil organisations did initiate some recruitment programmes to facilitate the employment of persons of Roma origin in the public service<sup>21</sup>.

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<sup>20</sup> ZARA, *Rassismus Report 2008*, available at:

[http://www.zara.or.at/\\_doc/2009/ZARA\\_RassismusReport2008.pdf](http://www.zara.or.at/_doc/2009/ZARA_RassismusReport2008.pdf) (11.09.2009).

<sup>21</sup> In September 2009, the Hungarian Prime Minister announced a governmental plan to offer 200 positions to experts of Roma origin in public administration from January 2010.<sup>284</sup> In addition, the Secretary General of the Association of European Roma Law Enforcement Officers (FAERLEO) was appointed as one of the two spokespersons for the National Police, which is an important and visible position

## **V.ii Housing**

Housing<sup>22</sup> is one of the most important factors needed to create a positive environment for human beings. The inability to access adequate housing has an impact on other aspects of life including access to education, employment, health and social services.

Inability to access adequate housing is characterised by segregation, exclusion and lower standards of living, mostly in areas with poor infrastructure and limited access to social 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<sup>23</sup>.

### **Roma**

The housing situation for the majority of Roma has not changed significantly since last year's shadow report. The Roma housing environment is still characterised by segregation, exclusion and lower quality living conditions. Roma are also commonly victims of forced eviction.

Although the number of Roma living in cities in Hungary has been increasing, the majority still live in villages and segregated settlements in the countryside. A large percentage of these areas have poor access to public services, undeveloped or under developed infrastructure, high unemployment rates due to lack of jobs in the area and/or lack of the skills needed, poor health and education systems.

Unfortunately, due to the frustration in such segregated environments, these areas are now commonly related to the rising use of drugs and other drug related activities.

Local authorities in Hungary have in recent years sold off significant amounts of the public (including social) housing stocks, apparently in order to compensate for declining revenues, creating a situation in which Hungary may not be able in practice to meet the housing needs of the poor and/or extremely poor. In addition, as detailed below, a number of local authorities have adopted very

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<sup>22</sup> This refers to both the access to housing and the quality of housing

<sup>23</sup> Social Exclusion and Inequalities in European Cities: Challenges and Responses; Inclusive Cities for Europe, September 2009 p20

arbitrary rules regarding the eligibility for public (including social) housing, rules which in practice may preclude many Roma from eligibility. Finally, widespread anti-Romani sentiment in Hungary means that unfortunately, allegations of racial discrimination in the allocation of public housing are often plausible<sup>24</sup>.

### **Third Country Nationals**

Third country nationals continue to encounter discrimination because of ignorance and lack of familiarity with their rights by public and/or private proprietors or because of racism and xenophobia.

It is still common to find that the rent for Hungarians 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 agree that migrants register the address as their temporary abode while in Hungary. Without registration, these persons are unable to access any kind of services and support received from the municipalities and local governments. The criteria to access services for example health services provided by a general doctor are residency and having an official address<sup>25</sup>.

### **Asylum seekers, refugees and other people with international protection**

In Hungary, during the course of the Participatory Assessment<sup>26</sup>, the Multi-Functional Team was alerted to a new phenomenon, which arose in a rather visible manner in 2009: the homelessness of recognised refugees and persons with other protection statuses<sup>27</sup>.

In a follow-up survey conducted by the UNHCR Regional Representation for Central Europe at the end of 2009 found that, refugees and beneficiaries of subsidiary protection have serious difficulties accessing adequate and affordable housing. This in certain cases has led to an increase of homelessness among this particular vulnerable group. Among the causes of this worrying development are those mentioned in last year's report<sup>28</sup>.

The housing subsidy provided to refugees to facilitate their movement from reception centres to private accommodations is not sufficient. Coupled with the inability to access employment, many persons with international protection are unable to make ends meet and end up being at the risk of becoming homeless shortly after leaving the reception centres. Secondly, they are unable to access social housing, because access to social housing is provided for Hungarian citizens only. Further to this, the local governments and municipalities that are responsible for providing social housing to those need, are not involved in the

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<sup>24</sup> <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/ERRC.pdf> p4. Accessed 1 September 2010

<sup>25</sup> Anita Novák: ENAR Shadow Report 2008: Racism in Hungary p14.

<sup>26</sup> Age, Gender, Diversity Mainstreaming Participatory Assessment

<sup>27</sup> 2009 Report: Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe; UNHCR Regional Representation for Central Europe p33

<sup>28</sup> Anita Novák: ENAR Shadow Report 2008: Racism in Hungary p14

integration process of refugees, thus there is a lack of comprehension of the problem<sup>29</sup>.

It is further noted that homeless refugees have difficulties accessing mainstream homeless shelters; and even in those cases when it is possible, they find themselves in an environment full of racism and intolerance. The system is not prepared to accepted foreigners, and in addition, the staff do not speak foreign languages.

The accommodation facilities in the reception centres are not user friendly to those asylum seekers and persons with international protection who are handicapped, especially those using wheelchairs.

### **Statistics**

In Budapest's Magdolna (Jozsefvaros) district:

- 21% of the houses do not have basic amenities;
- 40% of the houses are overcrowded<sup>30</sup>.

### **Examples of NGO Good Practice**

The Podo Roma Integration Model Programme aims at providing improved housing and social integration. Among its objectives is to transfer residents into integrated housing, while at the same time improving segregated housing, by among others reduce unemployment and educational inequalities, as well as community development<sup>31</sup>.

The Reformed Church in Hungary, through its housing project, provides a rent subsidy to families and individuals for a year to enable people to leave the refugee reception centres and begin life in a Hungarian community.

The MENEDEK association for migrants continues to assist to third country nationals and persons with international protection to find adequate and affordable housing.

The Roma Press Centre continues to visit and report on cases of forced eviction and urges the local government to provide temporary shelter.

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<sup>29</sup> Anita Novák: ENAR Shadow Report 2008: Racism in Hungary p15

<sup>30</sup> Social Exclusion and Inequalities in European Cities: Challenges and Responses; Inclusive Cities for Europe, September 2009. This district has a large population of Roma.

<sup>31</sup> The main activities of the project include the development of fészek-lakások (nest homes), part of a two-step housing programme that entailed purchasing houses by the local government in integrated areas for young Roma families that agree to pay 5500 HUF – 21 Euros per month and an additional 15,000 HUF – 58 Euros per month in the form of savings so that they can acquire a new house in five or six years to make room for new families in the 'nest homes'.

## V.iii Education

### Roma

Segregation in Hungarian schools is still a serious problem – the widespread stigmatisation of Roma means many parents and indeed teachers would prefer their children not to mix with Roma children in schools, or elsewhere. Indeed, often the prejudices are so deep that many Roma children are placed in schools for children with special educational needs. Despite the changes brought by the 2004 Equal Treatment Act, which forbids segregation in the school system, the problem persists<sup>32</sup>.

Unlike all other children in the centre, many Roma children were denied enrolment by local schools in Debrecen on grounds that they are not used to sitting still for long periods, that they are illiterate at an advanced age, or that their motor skills are not developed enough for writing and drawing<sup>33</sup>.

### Asylum seekers, refugees and other people with international protection

In comparison to Western Europe, few asylum seekers and persons with international protection arrive in Hungary. Nevertheless, the question of their access to education is not sufficiently addressed. The Hungarian education system is still incapable of handling the education of this vulnerable group.

Access to education for non-Hungarians, especially refugees and other persons with international protection is still problematic. Language classes and training provided to refugees and persons with subsidiary protection at the pre-integration reception centre in Bicske, not very far from Budapest are insufficient. The lessons are provided by persons without the necessary qualifications and experience to teach Hungarian as a foreign language.

In a survey carried out by the UNHCR Regional Representation for Central Europe 'respondents noted there were limited or no opportunities to learn Hungarian during the reception phase at Debrecen Reception Centre as well as limited availability of language classes in Bicske and at community level in terms of number of hours per week and total length of time of language courses – 520 hours. There is no specialised language tuition for refugees with special needs (i.e. torture or trauma victims, illiterate or semi-illiterate refugees) nor flexible arrangements in place enabling those seeking employment or working to attend language classes<sup>34</sup>.

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<sup>32</sup> [www.philipbrennan.net/2010/08/026ROMA-HOPE-IN-HUNGARY/](http://www.philipbrennan.net/2010/08/026ROMA-HOPE-IN-HUNGARY/) accessed on 30 August 2010

<sup>33</sup> 2009 Report: Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe; UNHCR Regional Representation for Central Europe p31

<sup>34</sup> At the time of interviews, six out fifteen respondents did not attend any Hungarian language courses. Two had already submitted a request for language courses and were waiting OIN's response. In case of another two, the statutory limit for benefiting from Hungarian language education had already been exceeded; hence there were no longer eligible for this service.

It is not rare to find that asylum-seeking children are taught in segregated classes, in rooms that are not suitable to house classes. This was the case in Csapókert primary school in Debrecen.

In Bicske, refugee children are unable to attend school at the closest Csokona primary school, but rather go to Kossuth Zsuzsa primary school, because the former does not accept refugee children.

### **Statistics**

Slightly more than 80% of Roma children complete primary education, but only one third continues their studies to intermediate (secondary) level. This is in stark contrast to the fact that more than 90% of children from non-Roma families continue their studies to an intermediate level. Less than 1% of Roma hold higher educational certificates<sup>35</sup>.

In May 2009, of the 184 children resident at Debrecen reception centre, that were supposed to attend school, only 35 went to school, because of the lack of places at the neighbouring schools.

### **Examples of NGO Good Practice**

The Publicity for Tiszaazug Utility Foundation runs a project aiming at increasing the number of Roma students attending secondary school as well as decreasing the prejudices and discrimination of the educational institutions.

The Reformed Church of Hungary through its school programme, offers high education and intensive language instruction to youth between the age of 13 and 18.

A small migrant organisation MIGHELP is providing basic computer classes to refugees and beneficiaries of subsidiary protection at Bicske pre-integration centre next to Budapest.

### **V.iv Health**

There are two kinds of difficulties encountered when trying to access health services: when a person does not have access to certain health services due to their origin, social group, colour and/or background; and the second is when one experiences concrete discrimination while receiving a health service.

### **Roma**

One of the major factors affecting access to health care of the Roma, is attributed to geographical inequalities in Hungary. Although the number of Roma staying in cities in Hungary has been increasing, the majority still stay in villages and segregated settlements in the countryside. A larger percentage of these areas

<sup>35</sup> [www.romarights.net/v2/country-profiles/hungary/](http://www.romarights.net/v2/country-profiles/hungary/) Accessed 30 August 2010

found in parts of Hungary have poor access to public services, undeveloped or under developed infrastructure, high unemployment rates due to lack of jobs in the area and/or lack the skills needed, poor health and education systems.

The majority of segregated areas do not have an outpatient clinic with the services of a general doctor, nor a hospital within their vicinity. Hence, in order to access treatment, Roma have to travel longer distances compared to those communities in environments with well-developed institutional structures.

Roma may also face two further types of discrimination: when Roma are unable to access certain health services, because of being Roma; and when the Roma experience direct discrimination when receiving a particular health service. Emese Ibolya <sup>36</sup> illustrates some cases when discrimination takes place in health care:

- insufficient access to GPs or medical specialists;
- the supposition of healthcare providers that a Roma patient cannot afford to pay gratuity money<sup>37</sup> for the medical service;
- negative discrimination in antenatal care;
- improper access to preventive treatments.

Roma women and asylum seekers resident at Debrecen reception centre try to avoid consultations with one medical doctor who is reported to use improper language and body language towards them<sup>38</sup>.

### **Asylum seekers, refugees and other people with international protection**

Refugees often have added physical and mental health problems to those found within the general population due to experiences of persecution, trauma and flight. They might experience problems when seeking access to healthcare services because they may not have basic language skills to communicate with healthcare providers.

Indeed, access to psychosocial counselling for asylum seekers arriving to Hungary is insufficient. Currently, such services are being provided by the Cordelia foundation within the reception centres. However, due to lack of capacity and funds, the services are not at a level that would be deemed satisfactory. An additional hindrance is that these services are only available to patients at the reception centres and not those staying in private accommodation.

Asylum seekers and persons granted 'tolerated stay'<sup>39</sup> can only access emergency and basic treatment. It is only in exceptional and life threatening

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<sup>36</sup> Policy Paper: Improving Medical School Curricula and Roma Access to Health Care in Hungary

<sup>37</sup> Gratuity money is a widespread phenomenon in Hungarian health care by patients' directly giving money to medical personnel for their services as a symbol of gratitude

<sup>38</sup> 2009 Report: Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe; UNHCR Regional Representation for Central Europe p31

<sup>39</sup> Lowest level of international protection provided in Hungary, with the least minimum benefits attached

circumstances that they may be able to access professional advanced medical treatment.

Access to adequate mental health services is unavailable to asylum seekers and persons with international protection. The mainstream mental care institutions are inaccessible to these persons, this concern was also raised by UNHCR<sup>40</sup>.

### **Cases**

The involuntary sterilisation case handled by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) was finally settled by the Hungarian government in 2009, resulting in financial compensation being paid to the victim<sup>41</sup>. 'During a parliamentary session on 24 February, MP József Gulyás asked a question to the Hungarian Prime Minister regarding the coercive sterilisation of a Romani woman, Ms A.S. The State Secretary of the Ministry of Social Affairs and Labour, Mr. Lajos Kórozs, responded that the Ministry shall provide financial compensation to her. The European Roma Rights Centre (ERRC) and the Legal Defence Bureau for National and Ethnic Minorities (NEKI) welcome this decision of the Hungarian Government as an important acknowledgement of the seriousness of this human rights violation, and of the importance of respecting the rights of women under international law'<sup>42</sup>.

Following an attack by skinheads a third country national was hit in the back, fell losing consciousness for about 15 minutes, and lost a tooth. The attackers then ran off. His colleagues immediately called the police and the ambulance. The police asked the victim what was his nationality and upon hearing the answer immediately referred the caller to the district police, without providing the necessary details and contacts<sup>43</sup>. Neither the police nor the ambulance service turned up.

After the incident, the third country national wrote to the head of the Budapest Police and the Head of the Ambulance service and lodged a complaint regarding the incident. He believed that he did not obtain the services of the emergency services because he was not a Hungarian citizen. Both denied this, and when a review of the telephone conversation to the emergency services was requested, both authorities replied that 'due to technical problems' it was not possible to review the voice recordings of that night.

Subsequently, at the insistence of an NGO<sup>44</sup>, the Budapest Police opened up an investigation regarding the incident. Only the victim and the two friends (the

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<sup>40</sup> Mental patients who arrived from the former Yugoslavia during the war in the early 1990s continued to be housed at different reception centres, and were not able to access the mainstream mental care system. The last group still arrive was returned to Bosnia and Herzegovina in 2009. Currently in Debrecen reception centre is a persons from Zimbabwe, who has been there since 2000.

<sup>41</sup> <http://www.errc.org/cikk.php?cikk=3011>

<sup>42</sup> ENAR Weekly Mail 174 – 27 February 2009

<sup>43</sup> Budapest is divided into 23 districts.

<sup>44</sup> International Law Research and Human Rights Monitoring Centre (ILHRMC).

witnesses) were interviewed; after which the case was closed due to the lack of information about the perpetrators.

### **Examples of NGO Good Practice**

Cordelia Foundation continues to offer psychiatric and psychological care to torture survivors and other serious trauma victims of organised violence coming from all over the world in search of international protection in Hungary.

### **V.v Policing and ethnic profiling**

The lack of official data on discriminatory policing practices in Hungary is a serious problem and an impediment to a more serious and sustained effort to remedy discriminatory police practices. The availability of reliable data about the actual practices of various actors in the criminal justice system is a prerequisite to effectively combating racial discrimination in the administration of justice. Without reliable race and ethnic-coded data, it is difficult to prove many allegations of discrimination<sup>45</sup>.

The police have always proved reluctant to treat incidents of violence against persons from particular groups as acts of violence and/or hate motivated crimes. 'Law enforcement authorities were criticised for failing to pay sufficient or timely attention to possible hate motivations behind the attacks'<sup>46</sup>. This could be attributed to the fact that the police and the public prosecutors do not have the experience in handling and investigating hate related crimes. In addition, the law enforcement authorities have not received any specialised training in the investigating of hate motivated crimes. The police have also failed to deploy sufficient number of investigators when such crimes are committed.

Moreover, the low levels of registration of racially motivated crimes can also be attributed to law enforcement agents, as well as to prosecutors and courts, which are very reluctant to recognise racial motivation in violent and non-violent crimes committed against Roma. The focus of police leadership is aimed at the higher criminality rate and cultural specificity of the Roma rather than on racist crime and violence, which is seen as marginal.

Racially motivated crime is primarily an issue related to Roma. However, police training focuses on Roma criminality and cultural characteristics rather than racist crime and violence against the Roma.

In conclusion, hate motivated crimes have drastically increased in the past 3 years, and will continue to do so, if the law enforcement authorities carry on being unable to bring the perpetrators to justice. The current political environment, with the number of radical and nationalistic representations in the national parliament and in the municipal councils on the increase, creates a more

<sup>45</sup> Anita Novák: ENAR Shadow Report 2008: Racism in Hungary p22

<sup>46</sup> OSCE: Field Assessment of Violent Incidents against Roma in Hungary: Key Developments, Findings and Recommendations p11, Warsaw 15 June 2010

conducive environment to promote racist activities, especially those targeting the Roma.

### **V.vi Racist violence and crime**

Taking into consideration the past twenty years since the change of the political system in Hungary, the past decade has seen a rise in violent attacks in the region as a whole. In particular, Hungary has witnessed a sharp rise in violent attacks against minority groups and their property, principally the Roma communities during the last three years<sup>47</sup>. 'The immediate cause of heightened domestic and international concern about the situation of the Roma in Hungary beginning in late 2008 was a series of violent incidents leading to loss of life, serious injuries and destruction of property among the Roma community'<sup>48</sup>. It is estimated that there were 40 violent attacks targeting the Roma and their property between 2008 and 2009.

The rise in anti-Roma rhetoric, mainly propagated by nationalistic and extremist groups could be attributed to the existing political, social and economical tensions at the time in Hungary. The extreme Jobbik party and the Hungarian National Guard paramilitary association are some of the well known organisations that were intentionally fuelling the negative sentiments against the Roma by branding the Roma as criminals and as parasites. Gypsy criminality was a common slogan used by these organisations in the election campaigns for the European and National parliamentary elections.

In the weeks before the European Parliament elections in 2009 and the National Elections in 2010, there were weekly rallies being held by the Magyar Garda or the 'Hungarian Guard'. Their members wore black boots and uniforms bearing nationalist symbols last employed by Hungarian fascists during World War II.

They targeted Roma in general; who they branded 'gypsy criminals' and those wanting to integrate Romani children into the country's schools were/are castigated and labelled anti-Hungarian. Their rallies usually took place in Roma communities with large numbers/supporters. Their numbers of supporters grew day by day.

It must be stated that there is an underreporting of racists attacks, because the victims, who are mainly Roma and persons with colour, either do not trust the police, and instead 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.

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<sup>47</sup> There were 20 reported incidents involving firearms and explosives targeting Roma; two attacks with Molotov cocktails and gunfire; and a hand grenade leading to the death of four Roma; 365 reports of vandalism or destruction of Jewish and Christian properties; 57 anti-gay protestors arrested during the gay parade and 14 persons injured during the gay pride parade due to violent clashes.

<sup>48</sup> OSCE: Field Assessment of Violent Incidents against Roma in Hungary: Key Developments, Findings and Recommendations (Warsaw, June 2010) p11.

## **Statistics**

According to the Desegregation Foundation, there were 68 anti-Roma attacks including 11 fatalities between January 2008 and June 2009

## **Cases**

A Roma couple was killed in Pécs by a grenade thrown at their house, which also injured two of their three children.

### **Examples of Good Practice**

A 50-member investigation team was set up by the police to focus on assaults against Roma after the growing number of cases of violent assaults against them in the reporting period.

## **V.vii Access to goods and services in the public and private sector**

Vulnerable and disadvantaged groups, especially the Roma, the elderly, persons of colour and persons with disabilities continue to face difficulties accessing public and private goods and services. In most cases, they are denied access to these services and/or lack information on and how to access the services.

### **Roma**

Roma are unable to access both public and private services mainly in two ways: Those areas, especially in the countryside with a higher Roma population; are underdeveloped and therefore lack and/or have not developed the necessary social and private facilities available in other places; and secondly, Roma are practically denied access to these services.

### **Third country nationals**

Third country nationals, including asylum seekers and beneficiaries of international protection face difficulties accessing both private and public services, mainly due to lack of information on the availability of services and the inability to comprehend information only available in Hungarian. The public service structure as a whole is not 'foreign customer' friendly, with very few personnel speaking and/or willing to speak foreign languages. In addition, information is rarely provided in other languages other than Hungarian.

Besides, those public services related to the control of migration and residency, most public servants, especially at municipalities, have a wrong assumption that the services that they facilitated the access to are only available for Hungarian citizens.

Third country nationals rarely access loans from financial institutions, because they are not Hungarian citizens. Banks register all clients of third country national

origin as 'deviza külföldi'<sup>49</sup>, thus later restricting their access to certain banking services, only available to Hungarian citizens and possibly other EU citizens. Even in those rare cases when they are able to access bank loans and other special services, the conditions that they have to abide by are far stricter compared to those for the EU citizens, including Hungarian citizens.

Although less frequent in the reporting year, problems of accessing private services, especially restaurants and discos were evident. In most cases, flimsy excuses like 'this is a private event' were provided to those customers who looked different and were not of European complexion.

### **Asylum seekers and persons with international protection**

This particular vulnerable group face the same problems attributed to those faced by third country citizens.

The mainstream national child protection system is inaccessible and unavailable to unaccompanied minors. The legal guardianship institution meant to facilitate the welfare and well-being of unaccompanied child asylum seekers and persons with international protection is dysfunctional; and does not take into consideration the best interest of the child.

The current services including shelters provided by different stakeholders to homeless persons are not targeting nor are they suitable for homeless refugees.

### **Statistics**

According to the European Union Minorities and Discrimination survey:

- Over 40% of respondents in Hungary experienced discrimination in relation to private services;
- 90% of Roma in Hungary respondents considered that discrimination based on someone's ethnic or immigrant background is very or fairly widespread.

### **Cases**

An officer at a driving examination centre initially refused to allow a third country national to do the computer based driving licence exam, which is in Hungarian, because the examinee was not a Hungarian citizen, although the examinee could speak and write in Hungarian, having completed his law degree in Hungarian.

The officer was later forced to withdraw his statement and apologise, when the examinee requested written evidence specifying that the computer based examination is only available for Hungarian citizens.

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<sup>49</sup> Foreign resident/client

## V.viii Media, including the internet

The main weapon of a resurgent far right is precisely the deliberate and effective use of the media, addressing not only its sympathizers but also mainstream society. The figureheads of the radical scene make deliberate use of mainstream media; knowing exactly how to tailor their message with the right amount of proportionality and tone when delivering their extremist ideas. For them, public appearance is not only a means of disseminating ideas and concepts they consider important (e.g., 'Gypsy crime'), but it is also a tool of political power; individuals embraced by the media also find it easier to be accepted within the radical community.

Private radio, television stations, and print media are among the most widely used vehicles for dissemination of racist rhetoric. Web sites<sup>50</sup> and newspapers linked to far right and fascist organisations continued to publish anti-Roma, anti-Jewish and anti-foreigners sentiments<sup>51</sup>. An example is when 'Zsolt Bayer wrote in the daily *Magyar Hírlap* that "a huge number of Gypsies have given up on coexistence and given up on their humanity"<sup>52</sup>.

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<sup>50</sup> Examples include [www.kurucinfo.hu](http://www.kurucinfo.hu); [www.jobbik.hu](http://www.jobbik.hu), [www.barikad.hu](http://www.barikad.hu) accessed 6 August 2010.

<sup>51</sup> Anita Novák, ENAR Shadow Report; Racism in Hungary, (ENAR, 2008)

<sup>52</sup> [http://www.soros.org/initiatives/roma/articles\\_publications/articles/hardening\\_20090318](http://www.soros.org/initiatives/roma/articles_publications/articles/hardening_20090318) Accessed 18 August 2010

## VI. Political and legal context

### VI.i Anti discrimination

Hungary is a signatory to and has ratified most of the important international human rights instruments combating discrimination, including the European human rights instruments. Nationally, the Hungarian constitution is at the forefront of protecting human rights as prescribed in Article 70/A<sup>53</sup>. Hungary has gone a long way since the political changes in 1989.

Anti-discrimination law in Hungary offers strong protection, in particular through the Equal Treatment Act and some amendments to the Civil Code. The Equal Treatment Authority has taken an active role in the prevention of discrimination<sup>54</sup>. The necessary legal protection framework is in place. The concern is with the implementation and actual protection of the rights.

Raising awareness of the law and informing the public was a priority of the Equal Treatment Authority in 2009. In addition to making decisions public, on the web site of the Authority, summaries can be read on all decisions taken by the Equal Opportunities Authority. On 91 occasions the executives and staff members of the Authority informed the public through the media of their activities by presenting particular legal cases, and appeared at more than 60 events organised by NGO's, social organisations and fellow authorities. In 2009, the website of the Authority was visited by 74,138 persons<sup>55</sup>.

However, the NGO perspective is that the public awareness campaign was not successful, because it did not target people at the grassroots level. The medium of the campaign, the internet, was not sufficient, because few people at the lower ladder have access to the internet. Additionally, the campaign did not take into consideration those persons who cannot read.

The majority of those persons who tend to be victims are not aware of nor can they comprehend the anti-discrimination legislation or the existing legal remedies<sup>56</sup>. Even for those who may understand and who are aware of the

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<sup>53</sup> (1) The Republic of Hungary shall respect the human rights and civil rights of all persons in the country without discrimination on the basis of race, colour, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds whatsoever. (2) The law shall provide for strict punishment of discrimination on the basis of Paragraph(1). (3) The Republic of Hungary shall endeavour to implement equal rights for everyone through measures that create fair opportunities for all.

<sup>54</sup> Anita Novák, ENAR Shadow Report; Racism in Hungary, (ENAR, 2007)

<sup>55</sup> [www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu) Accessed 23 July 2010

<sup>56</sup> 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

remedies, the services for a lawyer and/or legal advisor are too expensive; as free legal aid is not readily available. Therefore, underreporting of cases is a common phenomenon.

Regarding the practical enforcement of the laws, it can be said that in spite of the unquestionable commitment of the Equal Treatment Authority and the increasing willingness of courts to penalize discriminative acts, the sanctions applied may not reach the level where they could be described as truly dissuasive, although in 2007 some very high fines were imposed by the Authority. Furthermore, on the positive side, more and more victims seem willing to come forth with complaints, and a growing number of NGOs are involved in strategic litigation, which promises the development of substantial case law eliminating the uncertainties of legal practitioners dealing with discrimination cases.

It can be still stated, however, that some of the clients contacting the Authority merely request information regarding the Authority's activity, and, ask for information and guidance regarding the correct authority to contact where the complaint does not fall under the Authorities remit. In addition to professional information, it also describes in a clearly understandable form why a given matter is not covered by the anti-discrimination legislation. This continues to be highly diverse since clients turn to the Authority when complaining of violations of law affecting all fields of life; e.g. they contested decisions of courts, various authorities; requiring information on opportunities for enforcing rights; increasingly more requests were received against banks' loan extension practice too; and as a result of the economic crisis, there were a growing number of complaints regarding job loss, redundancy, and work injury inquiries. The Authority continued to use the opportunity to call the complainants' attention to the opportunity of using some mediation procedure or legal assistance, for example, the Education Mediation Service, the Legal Assistance Service of the IRM /Ministry of Justice and Law Enforcement/, the Legal Point Network<sup>57</sup>.

## **VI.ii Migration and integration**

Hungary does not yet have a migration nor an integration policy and structure in place to facilitate the integration of migrants. Politicians are not willing to openly advocate for initiatives and actions that could lead to the successful integration of migrants. This is not a vote-winning endeavour.

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1. the civil court;
  2. the labour court (if discrimination occurs in connection with employment);
  3. the Equal Treatment Authority (since 1 February 2005);
  4. the administrative bodies authorized 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);
  5. to the local notary (in order to initiate a petty offence procedure in a number of fields, such as health care or employment).

<sup>57</sup> [www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu)

The lack of co-ordination and co-operation among the different agencies and local governments that are responsible for providing some of the services that have an impact on whether migrants could successfully integrate has not made the situation any better. Many of the services like access to social services and benefits can only be accessible through the local municipalities and governments, however practice shows that many of the public servants think and believe that these services are only accessible to Hungarian citizens.

Hungary does not have a legal or policy framework including a strategy that deals specifically with the integration of persons recognised to be in need of international protection. Under the Act LXXX of 2007 on Asylum, refugees and persons with subsidiary protection have the same rights and obligations as Hungarian citizens. Furthermore, they are entitled to accommodation, meals and pre-integration services provided at Bicske OIN run Pre-Integration Centre for the period stipulated in Section 41 Subsections 1-3 of Government Decree 301/2007 (XI.9.) on the implementation of Asylum Law. Upon leaving, they can have 520 hours worth of language classes, a subsistence allowance of HUF 28,500 for a period of two years from status recognition, conditional on attending language courses as well as a monthly housing allowance and an establishment grant of HUF 171,000. There is no government agency with a statutory responsibility for refugee integration at community level.

Incidentally, once refugees move out of Bicske pre-integration reception centre, they mostly 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 a strategic, cross-departmental response.<sup>58</sup> Hence, the increasing difficulty for refugees to access those services that may facilitate their successful integration.

Without the active participation of local governments *vis-à-vis* the setting up of effective migration and integration policies, the successful integration of migrants continues to be a dream. A case in point is the integration of refugees and other beneficiaries of international protection in Hungary. The agency responsible for refugee affairs is the Office for Immigration and Nationality (OIN). All matters pertaining to beneficiaries of international protection in Hungary are handled by the agency, which does not consult with the local governments including municipalities and cities when planning for activities meant to facilitate their integration. However, it is the local governments that are charged with providing some of the services that facilitate integration, but the inability to know and comprehend the integration plans of the OIN leads to either a delay or the inability to access certain services.

The situation regarding the possibilities for family reunification has not changed much since last year's shadow report. Although Hungarian legislation has

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<sup>58</sup>Refugee Homelessness in Hungary; UNHCR Regional Representation for Central Europe, Budapest, Hungary, March 2010, p10

provisions providing for the possibility for family reunification for migrants, in practice it is restrictive with a limited definition of who is a family<sup>59</sup> member. Further to this, refugees coming from Somalia are still unable to reunite with their families because the Hungarian Government does not recognise Somali national passports, and at the same time, even with UNHCR and NGO's persistent lobbying, is not willing to provide any kind of temporary travel documentation to the concerned groups. This situation has in many cases led Somali refugees to engage in secondary movements from Hungary to other European countries with friendlier asylum regimes.

Those integration related projects financed through the national European Integration Fund (EIF) for the past two years have not had a noticeable impact on the situation of migrants. Third country nationals are still considered as subjects and objects of the projects. An evaluation of the completed projects shows that the financed projects have not led to the empowerment of the target groups. Additionally, most of the projects have concentrated on research without planning any follow-up activities or initiatives.

### **VI.iii Criminal justice**

#### **VI.iii.i Racism as a crime**

Taking into consideration the past twenty years since the change of the political system in Hungary, the past decade has seen a rise in violent attacks in the region as a whole. In particular, Hungary witnessed a sharp rise in violent attacks against minority groups and their property, principally the Roma communities during the last three years<sup>60</sup>. 'The immediate cause of heightened domestic and international concern about the situation of the Roma in Hungary beginning in late 2008 was a series of violent incidents leading to loss of life, serious injuries and destruction of property among the Roma community'<sup>61</sup>. It is estimated that there were 40 violent attacks targeting the Roma and their property between 2008 and 2009.

Since the last shadow report, the situation has not changed and official statistical data on the application of legislation in relation to racist crimes and attacks is unavailable. There is still no comprehensive data available of the record of investigations initiated or completed, convictions, prosecutions initiated or complaints lodged.

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<sup>59</sup> According to the legislation a family member means husband/wife, minor child (including adopted child and the child of the spouse), parents (in case of refugees and beneficiaries of subsidiary protection under 18 years of age), otherwise only economically/socially dependent parents; and brothers/sisters or other direct-line relatives if they cannot provide for themselves due to health reasons.

<sup>60</sup> There were 20 reported incidents involving firearms and explosives targeting Roma; two attacks with Molotov cocktails and gunfire; and a hand grenade leading to the death of four Roma; 365 reports of vandalism or destruction of Jewish and Christian properties; 57 anti-gay protestors arrested during the gay parade and 14 persons injured during the gay pride parade due to violent clashes.

<sup>61</sup> OSCE: Field Assessment of Violent Incidents against Roma in Hungary: Key Developments, Findings and Recommendations (Warsaw, June 2010) p11.

The Framework Decision on Combating Racism and Xenophobia of 2008 was transposed by amending the Criminal Code, and became effective on 10 April 2009. Furthermore, although the Hungarian Penal Code [Section 174 (b)] criminalizes violence or planning violence against members of a national, ethnic, racial or religious group, stricter penalties provided for by this Section discourage the prosecution of crimes that may be racist, which are difficult to prove, as perpetrators avoid admitting racism as a motivation. Moreover, racist motivation is not an aggravating circumstance for ordinary criminal offences.

Section 269 of the Penal Code criminalizes inciting hate, and if convicted the perpetrator could face up to three years' imprisonment. The former Hungarian government attempted to criminalize hate speech, but the bills introducing this new legislation were all ruled unconstitutional by the Constitutional Court.

The political leaders are not ready or willing to openly decry violent attacks targeting the Roma and foreigners in Hungary, which is contradictory to the fact that when a member of the Hungarian minority in the neighbouring countries is attacked, the Hungarian government and politicians immediately refer to such attacks as racially motivated, specifically targeting Hungarians.

#### **VI.iii.ii Counter terrorism**

The new detention regime of asylum seekers seems to target all asylum seekers from Arabic countries in the name of the security and counter terrorism. Of all the asylum seekers in detention, more than 80% of the detainees are from the Middle East and North African states. Starting April 2010 when the strict detention regime was introduced, the number of asylum seekers has drastically reduced, well as the number of persons in detention has correspondently increased.

It could be rightly assumed that the practice is to dissuade would be asylum seekers from seeking for international protection in Hungary.

Additionally, access to citizenship to persons with an Arabic background seems to be more restricted compared to earlier years. An evaluation shows that this is a growing European trend, based on the belief that these could be terrorists and terrorists arrested tend to be in possession of European passports.

#### **VI.iii.iii Ethnic profiling**

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 to improve on the relations between the police and the groups'.<sup>62</sup>

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<sup>62</sup> Anita Novák, ENAR Shadow Report; Racism in Hungary, (ENAR, 2008) p32

However, a survey by the ILIRHMC in 2009 shows that the police have always proved reluctant to treat incidents of violence against persons from particular groups as hate motivated crimes, 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 have been immediately recorded as racist 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. 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 moving in the area without any lights switched 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 4 – 6 years for carrying out a racially motivated attack against a Hungarian.

Such a discriminative 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 members of the Roma community to conclude that justice is not equal to all; others are more equal than the Roma.

Administrative detention has become far stricter as 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<sup>63</sup>.

#### **VI.iv Social inclusion**

In Hungary a focus of the Roma inclusion policy is on housing integration, the elimination of segregated settlements and the development of new tools for financing the acquisition of housing. *Inter alia*, the Ministry of Social Affairs and Labour now requires most towns and cities in Hungary to elaborate an 'Integrated Development Strategy' incorporating an 'Anti-segregation Plan' in order to be eligible for urban development funds<sup>64</sup>.

A review of the different action plans, initiatives and projects clearly shows very few results have trickled down to the grassroots. A clear disparity can be seen

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<sup>63</sup> 2009 Report: Being a Refugee; How Refugees and Asylum Seekers Experience Life in Central Europe; UNHCR Regional Representation for Central Europe p33

<sup>64</sup> Decade Watch: Results of the 2009 Survey; Roma Decade Watch, Budapest 2010 p31

between activities partaken in the big cities and those in the countryside, in those areas mainly inhabited by Roma.

All social inclusion activities are not inclusive and have hardly included and/or involved migrants. The consecutive governments have failed to consider migrants<sup>65</sup> as major stakeholders and a target group while planning. Hence, most of the initiatives concern the Roma and in some cases those other citizens living below the poverty line. Additionally, this could be due to the fact that when such programmes and plans are being drawn, migrants and/or migrant representatives are not consulted, thus without a presence, the challenges they face are never taken into consideration.

Whilst the different social inclusion strategies and plans take into account Roma, very few concern migrants. There is a need to recognise the plight of other vulnerable groups like migrants and disabled people. The number of migrants is on the increase and if steps are not taken to socially include them, this would threaten the peaceful co-existence of the different societies in the future<sup>66</sup>.

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<sup>65</sup> These could be attributed to the fact that the total population of migrants is less than 2% of the over 10 million population of the country.

<sup>66</sup> Anita Novák, ENAR Shadow Report; Racism in Hungary, (ENAR, 2007) p37

## **VII. National recommendations**

### **VII.i General**

### **VII.ii Anti discrimination**

- Information on the available complaints mechanisms and structures should be available to the vulnerable groups;

### **VII.iii Migration and integration**

- The procedure to recognise educational certificates acquired outside Hungary should be simplified and the time-frame taken reduced;
- Migrants and/or migrant associations should be consulted when setting up the national European Integration Fund priorities;
- Migrants should be considered as equal partners and not as objects and subjects of integration projects;
- Local authorities should be involved and consulted when planning and initiating integration activities;
- Hungarian language classes should be tailored to the needs of the target groups;
- Migrants, including persons with international protection should be 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 of subsidiary protection;
- Beneficiaries of temporary protection should have impeded access to the labour market;
- 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;

#### **VII.iv Criminal justice**

- Attempts to recruit more persons of a minority background to 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 down racially biased policing;
- Asylum seekers should not be criminalised and detained;

##### **VII.iv.i Racism as a crime**

- Politicians and community leaders should condemn racist acts when they occur and make clear that there is zero tolerance for violent hate crimes;
- The national criminal code should be strengthened to cover all forms of bias-motivated violence and hate crimes;
- The police and public prosecutors should be provided with adequate training to investigate and prosecute hate motivated crimes;
- There is a need to improve monitoring, data collection and public reporting in order to ensure the accountability of law enforcement and sound public policy;
- Initiatives should be put in place to facilitate more people with ethnic backgrounds to be employed within the police and other law enforcement forces;
- Hungary should prosecute internet providers that allow their infrastructure to be used to publish hate and racist speech that incites persons to commit hate crimes.

##### **VII.iv.ii Counter terrorism**

- Counter terrorism measures should have a human rights based approach; and not lead to a violation of human rights.

#### **VII.v Social inclusion**

- All initiatives should actively involve grass root organisations, that are directly in contact with the beneficiaries;
- Networking and the exchange of best practices among NGOs and other like minded organisations should be encouraged;
- Social inclusion initiatives should aim at empowering the target groups;
- There is a need for public-private co-operation

## VIII. Conclusion

The reporting period witnessed a drastic rise in indiscriminate and racially motivated attacks targeting the Roma and their properties. This is a culmination of the tense political environment that resulted in the increase of political groupings and associations that openly expressed their anti-Roma, anti-migration and pro-Hungarian views.

The wave of political dissatisfaction with the former MSZP – SZDSZ governing coalition favoured the then opposition, sending the most number of MEPs to the European Parliament in 2009 and gaining a two-third majority in the national parliamentary elections held in 2010. Both elections witnessed the entry into the two parliaments of Jobbik, a far-right party that based its election campaigns on anti-Roma views and sentiments.

The new political environment is the result of a process of change that started in 2008 due to the country's economic problems that propagated in the rise in the number of disgruntled citizens who were facing increasing living costs, increased unemployment and pay cuts. These elements created a favourable time for far right leaning political organisations to gain political advantage, using populous and racist rhetoric.

Roma continue to face social exclusion, with more persons of the Roma communities being unable to access adequate housing, employment, education, health and social services.

Due to the dysfunctional and inefficient integration system and structure, migrants continue to face severe challenges accessing those services that would enable them successfully integrate in Hungary. Hence, it was not a surprise for example, to discover among other problems that the number of homeless refugees has drastically increased, thus highlighting the difficulty refugee's face in accessing adequate and affordable housing.

In the name of security, the law enforcement authorities with tacit support of the present government have put in place a strict detention regime for asylum seekers. Such a regime denies access to the asylum seeking procedure and adequate reception conditions to those persons who are in need of international protection. The time of detention is under review with the aim of increasing it from six to 12 months. It is not by coincidence that the majority of the detainees are young male persons, in some case including minors from the countries in the Middle East and North Africa, most of whom are Muslims.

It is vital that the government spearhead and facilitate the respect of human rights, and uphold democratic and constitutional principles.

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## **X. Annex 1: List of abbreviations and terminology**

- AGDM - Age, Gender and Diversity Mainstreaming
- BÁH – The Hungarian Office for Immigration and Nationality
- 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
- HHC – Hungarian Helsinki Committee
- HUF – Hungarian Forint (Currency)
- ILRHMC – International Law Research and Human Rights Monitoring Centre
- 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
- MJLE – Ministry of Justice and Law Enforcement
- 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



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