APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Hungary

ECRI, in accordance with its country-by-country procedure, engaged in confidential dialogue with the authorities of Hungary on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 12 December 2014, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

- In the fourth and eleventh paragraphs of page 7, as well as at points 32, 56, 60, 64, we consider the use of ,,self-organizing extremist" as appropriate wording instead of ,,paramilitary", given the fact that they are not armed groups.

- In the twelfth paragraph of page 7, as well as at points 26, 30, and 58, we consider the use of ,,radical extreme right-wing" as appropriate wording instead of ,,neo-Nazi".

- The Government does not agree with the statement in the second sentence of the first paragraph on page 8, as the revised version of the National Social Inclusion Strategy does refer to segregation in education (see points 7.3.1 and 7.3.2. of the National Social Inclusion Strategy). Data-based evidence to confirm the statement made in the third (,,Disproportionate numbers of Roma children continue to be placed in schools for pupils with learning disabilities.") and last sentence of the paragraph are missing. Several measures have been implemented by the Government in order to suppress unjustified classification as mentally disabled: restructuring of institutions, establishment of uniform rules of procedure, standardization of new diagnostic tests, training of experts in diagnostic committees, etc. Due to these developments, the ratio of children and students with mild mental disability decreased (2.1% of children and students in school year 2003/2004 and 1.5% in 2012/2013).

- On page 8, ECRI states that „Refugees face many problems in practice, notably homelessness; sleeping in certain public places can now lead to criminal sanctions." Regarding the second part of the sentence, the Government notes that – despite its previous observations – it still fails to reflect the full reality. It is not mere sleeping at public places, but the use of these public places as a regular living environment which draws the legal consequences of misdemeanors, and not criminal sanctions.

In the third paragraph of page 8, the observations concerning the living conditions in the asylum detention facilities do not reflect reality. The requirements of asylum detention facilities and the rules on the reception conditions are defined in Ministerial Decree No. 29 of 2013 (VI. 28.) on the Implementation of Asylum Detention and on Asylum Bail. Sections 11-13 of the Decree provide specific guarantees regarding maintenance of contact with legal assistance and with representatives of non-governmental organisations.

The Hungarian Government disagrees with the statements of the report that find asylum detention as incidental and arbitrary. The personal circumstances of the asylum-seeker are in every case taken into consideration when deciding on asylum detention, and the asylum authorities continuously assess the need for maintaining detention. If the authority finds that the availability of the asylum-seeker may be ensured by other means, the asylum detention will be terminated. The decision on detention always contains the assessment of the asylum-seeker's individual circumstances. Factors such as full capacity of reception centers or the nationality of the asylum-seeker are not influencing factors in the decision-making process.

In light of the data of 2014, only a small percentage of asylum seekers were kept in detention, and asylum bail was applied in a great number of cases. The asylum detention facilities have been subject to constant supervision by the public prosecutor and the judiciary. The inspections of the public prosecutor have not revealed any inadequacies or

violations of the law. This fact alone contradicts the statements regarding limited communication with legal assistance and other non-governmental organizations.

- In regards to the fifth paragraph of page 8 and in point 66, Government resolution no. 1744 of 2013 (X.17.) on the National Crime Prevention Strategy (2013-2023) emphasizes that it concentrates first and foremost on the prevention of traditional, frequently committed crimes and does not deal with criminal activities (e.g. hate crimes, corruption) whose prevention and treatment require the special knowledge and expertise of national bodies. At the same time, a number of measures have already been taken by law enforcement bodies to handle the problem (e.g. setting up of a specialized unit within the police on hate crimes; activities of the Counter-terrorism Centre in relation to paramilitary groups – these are summarized in point 64).

- Concerning the recommendation on the integration of beneficiaries of international protection (page 8, second last paragraph), we would like to highlight that the integration contract does not exclude the possibility of Hungarian language training to be provided to beneficiaries of international protection. The introduction of the integration contract as of 1st January 2014 meant the termination of the compulsory Hungarian language training provided by the Office of Immigration and Nationality, the content of the support services to be provided upon the integration contract are free to be defined based on the needs of the beneficiary of international protection, it may include Hungarian language training as well. Moreover, we would like to highlight that as a general rule, applicants for asylum are accommodated at the open reception centres, so asylum detention may only be ordered as an exception, after the assessment of the use of alternatives to detention. The statistical data confirm this practice, as approximately 80% of all asylum applicants are accommodated at open reception centres.

- Points 7 and 10:

In our opinion this is a misinterpretation of the criminal offence of incitement against a community, regulated in section 332 of Act No. C of 2012 on the Criminal Code (hereinafter: CC.). Contrary to the wording of the Report, the commission of the crime against “certain groups of the population” may be based on other characteristics than disability, sexual identity or sexual orientation. The CC merely listed these specific groups by way of example due to the growing number of crimes against members of such groups and due to their increased chances of victimization. However, the act in question may be committed against any other definable community that is not named separately, which share similarities based on other aspects (political, ideological, geographical, etc.).

The meaning of „national group” as written in the CC is wider than in section 1 (1) of Act No. CLXXIX of 2011 on the Rights of Nationalities (henceforward: Act CLXXIX of 2011), which determines “nationality” as follows: “every ethnic group – that is native in Hungary for at least a century -, which is in numerical minority among the population of the state, which differs from the rest of the population due to its own language, culture and traditions, but at the same time represents a sense of collective belonging that is aimed at the preservation thereof and at the expression and protection of the interests of its historically formed communities.”. Nationalities are listed in the first Annex of Act CLXXIX of 2011: “Bulgarian, Greek, Croatian, Polish, German, Armenian, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian.". It must be pointed out that the term “national group” of the CC is wider than the content of the term “nationality” as written in Act CLXXIX of 2011, therefore it includes ethnic groups that are not native in Hungary for at least a century, such as the Chinese minority. The use of the term “national group” guarantees criminal law protection

for non-Hungarian persons who settle in- or reside temporarily in Hungary (immigrants, refugees, foreigners settled in Hungary, stateless people), irrespective of their citizenship.

It must further be pointed out that the term „certain groups of the population" wishes to provide protection to people who are may be grouped based on practically any feature, thus the act guarantees protection against atrocities deriving from discrimination based on citizenship, color, origin or language, which are not enlisted in the act. The interpretation of the specific legal subjects of the crime – certain groups of the population, national group, etc. – has not raised any difficulties neither in legal regulation nor in the developed practice.

It must be mentioned that point 18, subpoint a) of GPR No. 7 renders public incitement to violence, hatred **or** discrimination to be punishable, which is in our opinion an alternative list. On the one hand, section 332 of the Hungarian CC renders incitement to hatred punishable. On the other hand, section 216 (1) of the CC punishes displaying a provocative conduct directed against the community that is capable of causing alarm in members of a given group that are affected in the bias-motivated attack. In respect of the latter crime, it is not even necessary to display the violent behavior against a member of the group in question, it is sufficient to display such act against an object (e.g. a vehicle parking on the street). Such behavior, if committed in public, can result in causing alarm or even hatred in other people (e.g. using degrading and hateful phrases while displaying anti-social conduct), or it can provoke violence (e.g. inciting or attempting to incite others to similar behavior).

- Points 8-10: Point 18, subpoint b) of GPR No. 7 requires the criminal punishment of intentional public insult and defamation committed against a person or a group of persons based on their race, color, language, religion, national or ethnic origin. The Government believes that section 226 on the criminal act of defamation complies with these requirements. It is an aggravating circumstance to commit defamation with a malicious motive, and according to Hungarian legal practice, criminal offences motivated by racism, anti-Semitism or by other similar bias always qualify as an offence with malicious motivation or intent.

- Points 9 and 10: „*However, the ground of language is not explicitly included.*" In this regard, we refer to the argument written above.

- Points 11 and 12: According to the Report: „*There is also no mention of the public dissemination, distribution, production or storage, with a racist aim, of written, pictorial or other material containing racist manifestations (§ 18 f)*"

The Government points out that – with the 4th amendment of the Fundamental Law of Hungary (adopted on 25 March 2013 and entered into force on 1 April 2013) – the provisions on freedom of expression were complemented by further rules. The new sections (4) and (5) of Article IX. of the Fundamental Law include the following constitutional provisions:

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

(5) Exercising the freedom of expression and opinion cannot be aimed at violating the dignity of the Hungarian nation or the dignity of any national, ethnic, racial or religious group. Members of such groups are entitled to bring action before the court – as defined by law –

against any statement considered injurious to the group alleging violation of their human dignity. ”

This demonstrates that the constitutional regulation regarding freedom of expression has changed in the meantime

If a public official discriminates based on race in the course of his/her official activity, it raises criminal law issues if, taking into consideration all the circumstances of the case, he/she also commits the crime of violence against a member of a community according to section 216 of the CC, or incitement against a member of a community according to 332 of the CC. Naturally, in such cases the commission of abuse of authority (section 305 of the CC) cannot be ruled out either.

- Points 13 and 14 The Report recommends to „(...) *include in the Criminal Code racist motivation as a specific aggravating circumstance for all criminal offences.*"

Hungary does not agree that racist motivation should be included *expressis verbis* as aggravating circumstance regarding every criminal offence, as it is recommended in section 21 of GPR No. 7. It would be quite unrealistic to establish a racist motivation in the context of theft, economic fraud, money laundering, organization of illegal gambling, or traffic violations, just to name a few examples. It is for this reason that the legislator opted for a general requirement to impose a punishment – within the limits established by law – that is adapted to the danger the crime and the offender poses to society, the degree of culpability, and other aggravating and mitigating circumstances, keeping in mind the aim of punishments (section 80 of the CC). Thus, if the perpetrator committed a crime where the malicious motivation or aim is not *de jure* an aggravating circumstance, the court may consider the racist motive as an aggravating circumstance when imposing a punishment, provided that such a motive is sufficiently proven. This is also defined in section III, point 2 of opinion No. 56 of the Criminal Board of the Supreme Court on factors to be considered during the imposition of a punishment: "The method of commission, considered by law as an aggravating circumstance regarding certain crimes is generally also an aggravating circumstance of other crimes [applied at the stage of the imposition of the sentence]." As a consequence, according to rules acknowledged and applied by legal practice, racist motivation can be taken into account as an aggravating circumstance even if the law does not include it as an aggravated case for a criminal offence.

- Point 16:

Pursuant to points a) and b) of section 21 of *Act No. CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (hereinafter: the Ebktv, following the Hungarian abbreviation)* it is considered a violation of the principle of equal treatment especially if an employer uses direct or indirect discrimination against an employee, in particular regarding access to work, in publicly advertised vacancies, hiring, conditions of employment, or actions carried out before the establishment of the employment relationship or other relationships related to work, or related to the procedure facilitating the establishment of such a relationship. **However, the Hungarian Equal Treatment Authority may launch an investigation into the manifestation of express intent to discriminate or its public advertisement in every field (thus beyond the field of employment, in areas such as social security and health care, housing, education, goods and services) of discrimination.** Moreover, as an example, by virtue of section 30, point c) of the Ebktv. it is considered a particular violation of the principle of equal treatment if, at premises open to customers, particularly in catering, commercial, cultural and entertainment establishments, a notice or sign is displayed implying that a certain individual or certain individuals are excluded from

the provision of services or sale of goods at the premises based on attributes defined in section 8 (the list of the so-called protected characteristics).

Furthermore, statements that contain express intention to discriminate, or statements that publicly advertise discrimination may be investigated in the aspect of harassment.

In relation to the act of inciting others to discriminate, it is important to underline that pursuant to section 7 (1) of the Ebktv., any order to commit direct or indirect discrimination, harassment, segregation or retaliation likewise constitutes violation of the requirement of equal treatment.

- Point 35:

The Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems (hereinafter: Additional Protocol) was signed by 13 European Union Member States so far. The Government points out that Hungary has not yet signed the Additional Protocol, as the criminalization of such acts would – having regard to the constitutional requirements established by the Constitutional Court – violate the right to freedom of expression guaranteed in Article IX (1) of the Fundamental Law. Since the Additional Protocol does not make it possible to reserve the right not to apply Article 4 on racist and xenophobic motivated threat, the Protocol cannot be signed by Hungary at this point without the risk of invoking unconstitutionality.

Nonetheless, we would like to draw the attention to the fact that the new Criminal Code introduced a new provision, namely "rendering electronic data permanently inaccessible" (section 77). The reason for this new provision was to have more effective tools in the fight against crimes which may also be committed by publishing data in electronic communication networks. Incitement against a community is one of such examples, as according section 459 (22) of the Criminal Code the term "committed in public" must be interpreted as including commission by way of publication on electronic communication network. In order to enable the authorities to take more effective action, the new Criminal Code therefore makes it possible to render the data published on electronic communication networks inaccessible if it constitutes a crime, were used as a tool to commit a crime or were created through a criminal act.

The Criminal Code further provides that the rendering of electronic data permanently inaccessible shall be ordered even if the perpetrator cannot be prosecuted due to age or mental incapacity, or if the offender has been reprimanded. In these cases, rendering electronic data permanently inaccessible shall be ordered as an independent measure.

In parallel to the introduction of rendering electronic data permanently inaccessible as a new measure under the Criminal Code, it was further necessary to amend the Code of Criminal Procedure with a new coercive measure that - similarly to the above mentioned measure – aims at preventing the continuance of commission of crimes which may be committed through computer systems, and at the temporary disabling of access to prohibited data. The coercive measure of "rendering electronic data temporarily inaccessible" was added to Act No. XIX of 1998 on the Criminal Procedure Code (hereinafter: CPC) by Act No. CCXXIII of 2012 on the amendment of certain laws and temporary provisions related to the entry into force of Act No. C of 2012 on the Criminal Code (in force since 1 July 2013).

- Point 42:

The Media Council can apply a more extended scope of sanctions than the sanctions listed in the second sentence of the 42nd point of the report, it includes the exclusion from the tenders of the Foundation, moreover it includes the possibility of service deregistration and termination of the regulatory contract with immediate effect.

In connection with the 42nd paragraph the Government indicates that the Media Council obliged the media content provider (the publisher) to pay the fine and not the writer of the article.

- Point 53:

It cannot be identified which authorities provided information. In order to present objective information, we think it would have been necessary to indicate them precisely.

- Point 57:

ECRI notes that "Jews have been attacked in the street (…)". We consider that such atrocities are not generally typical to Hungary.

- Point 59:

Violence against the target group mentioned in the first sentence is exceptional in Hungary. In the concrete case, there is no enforceable, final judgment.

Contrary to what is stated in the report, those affected do not have to wait several months to receive the integration support. Based on integration contract, most of the refugees and persons under subsidiary protection who submit an application for integration support immediately receive accommodation and support at the reception centres, within the framework of the service guaranteed by the Act on Refugees and its enforcement decree. Following the decision granting integration support, the Office of Immigration and Nationality promptly takes action for the payment of the first installment of integration support for refugees and persons under subsidiary protection.

The vast majority of clients take the opportunity to reschedule payments, which enables the first year's integration support to be received as a lump sum. Based on last year's experience, clients requested rescheduling in order to establish housing conditions; to pay rental fee and deposit. Unfortunately, it is also last year's experience that on a considerable number of occasions clients did not use the significant amount of rescheduled support for the cause indicated by them previously, rather, they left to unknown locations after receipt of the support.

- The Hungarian Government still does not agree with the findings of the report stating that homelessness typically occurs amongst refugees and persons under subsidiary protection, as experience from last year does not support this statement. Housing of refugees and persons under subsidiary protection who receive integration support is typically resolved.

With this in mind, there is likewise no basis to claim that the refugees and beneficiaries of subsidiary protection leave the country and move typically to another Western European country due to fear of homelessness or its legal consequences. According to our experience, the primary reason for leaving Hungary is rather economic in nature; they consider that they have better chances of finding a job in Western-European countries, secondly they have relatives, friends in these countries whose support they can count on. The phenomenon is related to the transit role of our country.

- The Hungarian Government would also like to indicate that refugees and beneficiaries of subsidiary protection may access the social benefit system with the same conditions as Hungarian citizens, and the amount paid for them as integration support – in comparison with the amount paid to Hungarian citizens living in similar situations – is higher. The aim of the integration support is to enhance social inclusion, to which our country intends to contribute with financial support provided to the refugees and persons under subsidiary protection in the first two years following recognition.

It is important to point out that expenses related to integration contracts and integration support are financed through state budget funds, contrary to the statements of the Report. Complementary activities (social integration programs run by NGOs such as organization of language courses, housing projects) are partially funded by European Union sources, but also with contribution from the Hungarian state budget.

- Point 79:

The draft report states that the Equal Treatment Act was amended on 12 July 2013 in order to contain the principle that pursuing equal rights and social equalization are first and foremost a state obligation. Roma organizations expressed concerns that this may in practice be used to legitimize measures which *de facto* constitute the segregation of Roma. As a counter-argument, the Report indicates that the authorities deny having such intention. We would like to emphasize that these provisions and the fourth amendment of the Fundamental Law of Hungary - which added the same principle in the Fundamental Law – do not in any way result in the legitimization of segregation based on any ground. Quite the contrary, it amounts to a clear and strong message that the state has committed itself to continued efforts in the field of social equalization.

- Point 80:

The Government does not agree mentioning the case in the Report. The Curia (the Supreme Court of Hungary) established in its final judgment, delivered after the preparation of the Report, that the Greek Catholic Church (Diocese of Hajdúdorog) did not pursue segregated education in the referred school of Nyíregyháza.

- Point 90:

Pursuant to Section 12 (5) point a) of Act No. LIII of 2006 on the Acceleration and Simplification of the Implementation of Investment Projects of Major Importance for the National Economy, the Government received authorization to issue a decree defining the matters of key importance for national economy. Based on this authorization, the Government issued Decree No. 461 of 2013 (XII.4.) on the Declaration of Administrative and

Regulatory Matters Relating to the Implementation of the Reconstruction of Diósgyőr Stadium within the Framework of the National Stadium Development Programme and on the Designation of the Proceeding Authorities. The decree also defines the area involved in the investment, thus the plots of land demarcated by Andrássy Street –Kilencedik Street – Tizenegyedik Street –Pereces Patak is specifically mentioned in the decree. The rental agreements in place in these areas are terminated *ipso iure*, pursuant to section 23/A of Act No. LXXVIII of 1993 on Certain Rules of the Renting of Homes and Other Premises and the Alienation Thereof (hereinafter Housing Act). The legal consequences of the termination of the rental contracts in such a way are regulated in section 23/A (2)-(5) of the Housing Act.

However, the stadium reconstruction not only affects rented homes, but also privately owned properties. The properties required for the stadium reconstruction are not sold to gain profit: the state acquires the privately owned properties either based on an agreement or through expropriation, while properties owned by the municipality are given to the project company that owns the sports facility as contribution in kind, pursuant to Government Resolution No. 1895 of 2013 (XII. 4) on the Measures Related to the Diósgyőr Stadium Reconstruction Project. Therefore the municipality has a law enforcement-and not legislative role in the construction of Diósgyőr Stadium, and the involvement in the construction works is determined by the location of the leased or owned properties and not by the nationality or income or financial position of the tenants or owners. That is why the project affects all residents living on the site defined in Government Decree No. 461 of 2013 (XII. 4), irrespective of whether or not they have any protected characteristics.

Naturally, a rental contract is a prerequisite for the eligibility for alternative accommodation or compensation. Without that, i.e. when a home is used without a legal title, the unlawful tenant must vacate the home pursuant to the provisions of the Housing Act. However, this does not mean that the tenant whose stay has become unlawful cannot apply for the lease of another flat owned by the municipality.

The statements relating to the eviction of “hundreds of Roma families” are incorrect.

This point of the Report mixes up the procedure conducted due to the investment, which is in full and absolute compliance with the provisions of the Act on Expropriation, with the elimination of slums.

The Report unjustifiably and wrongly treats public security, public health, tenancy and expropriation issues as minority issues.

The Report talks about coercion, whereas they are only contractual processes that are based on law and have been accepted by both parties in contracts, or procedures falling within the scope of judicial enforcement, regulated by law and supervised by the courts.

- Point 91:

Contrary to what is stated in point 91 of the Report, the criticized section 23 (3) of local government decree No. 25 of 2006. (VII.12.) of the General Assembly of the municipality of the County City of Miskolc on Lease of Housing (hereinafter decree), based on the authorization granted by section 23 (3) of the Housing Act, allows for the termination of a

contract by mutual agreement in respect of agreements concluded for an indefinite period which have not yet expired, and not at the expiry of the rental contract.

Distinction must be made between rental contracts for indefinite and definite terms.

In the first case, the tenant and the landlord municipality transform their indefinite rental relationship (without expiration date), which is a pecuniary right, into a compensation fee, through a unanimous declaration of intent. This terminates the rental contract as, pursuant to the decree, the tenant acquires private property. Section 23 (3) of the Housing Act expressly permits such legal transactions. A rental contract concluded for an indefinite term is unlimited in time, and may be terminated only in cases specified by law with mutual consent or with a unilateral declaration if either party is in breach of the contract (e.g. lack of rent payment).

In the second case, the rental right of the tenant to a particular home is limited in time due to the joint intention of the contracting parties. It lasts for a specifically defined period, after the expiry of which the contract is automatically terminated *ipso iure* when such objective event occurs. A terminated right cannot be compensated and its value cannot be paid off, as no such legal transaction is known under the Housing Act at the moment of the termination of an engagement. If no remuneration is given in respect of a given service, than it is considered a donation.

In view of the above, the statement of the report that compensation is paid upon the expiry of the rental agreement is incorrect.

According to the Report, each tenant living in a home with low comfort level receives compensation if they leave the property at the expiry of the rental contract. However, **in reality, only those receive compensation who have rental contracts for indefinite terms for a home with low comfort levels and undertake to purchase a property outside the administrative area of the city, which may not be sold or debited for 5 years starting from the sales transaction.**

Another statement of the Report, according to which earlier only tenants of homes with high comfort degrees were eligible for compensation, is also incorrect. Prior to the amendment of the decree that entered into force on 13 May 2014, the rental agreement could be terminated with mutual consent and with the payment of compensation in respect of any type of accommodation which was rented for an indefinite period. However, the municipality recognized that the scope of beneficiaries should be limited in order to manage public funds responsibly and in the spirit of positive discrimination.

In respect of tenants of houses that are rented under market terms and conditions, there is no need to apply any measures - based on assets or income - that helps finding accommodation when a rental agreement is terminated. As these tenants have higher income, they are able to rent a home even from private individuals under market terms and conditions.

However, the socially disadvantaged tenants are not in the same situation, and therefore are unable to fund themselves normal and dignified housing conditions under market terms and conditions, or even based on the principle of costs.

Hence, positive discrimination is justified towards the socially disadvantaged people, i.e. based on the authorization granted by the Housing Act, the decree ***provides opportunity*** for the payment of compensation when the contract is terminated by mutual consent in order to enable the tenant of the home to arrange for housing due to the termination of the rental contract. This compensates for the income advantages of those who rent homes according to market terms and conditions.

These provisions, aimed at positive discrimination, are in line with section 17 and Article 5 of Council Directive No. 2000/43/EC.

The government wishes to emphasize that section 23 (3) of the decree, which regulates the termination of a rental contract by mutual consent and with the payment of compensation, is only an option. This provision is actually applied if the tenant accepts the offered option, i.e. clearly expresses in writing his/her wish to terminate the rental agreement by mutual consent, together with the payment of compensation. In such case the rental contract is terminated by the mutual consent of the tenant and the landlord (municipality), subject to the consensus between the two parties. **The contract is not terminated as a result of a unilateral statement.** In a decision, adopted independently by the tenant as a natural person with full legal capacity and ability to act, the tenant undertakes, in consideration for the compensation received in exchange for the valuable right, to use the received compensation to buy a property and not to sell or debit the acquired property within 5 years.

According to the experiences of the (less than one year) period after the amendment of this provision of the decree, termination of the contract with the payment of compensation was offered in writing to each eligible tenant upon their request. The tenants concerned could also provide a written declaration as to whether they wished to take the option or would rather request another accommodation. In the majority of cases, the tenants opted for alternative accommodation, compensation was paid in one case only. **Pressure therefore was not applied under any circumstances. If the tenants rejected the option offered to them, the legal transaction did not take place.**

Another statement of the report, according to which tenants opting for compensation could not return to Miskolc for 5 years is also incorrect. The **restraint on alienation and debiting for a 5-year period in exchange for compensation, pursuant to the decree, does not mean that the individuals concerned cannot cross the administrative border of the city or that they cannot rent accommodation in the city, or that they do not receive social security benefits and services provided by the city. The purpose of this legal concept is to prevent the transfer of a property purchased from the compensation from being transferred (e.g. through sales or as a gift) to a third party other than the former tenant, and to prevent its debiting (e.g. mortgage).**

The restraint on alienation does not and cannot impede registration of the individual at an address in Miskolc. Section 15 (1) of Act No. LXVI of 1992 on the Registration of Personal Data and Address of Residents (Registration Act) contains a specific and exhaustive list of data which needs to be provided in relation to one's home address. Pursuant to the provisions of the Registration Act, citizens must only inform the authority responsible for the registration of addresses of their personal data and their old and new addresses, based on which the authority must register the citizen at the new address in line with the information provided. The citizen does not need to certify to the authority the type of the property of the new

residential address (e.g. detached house, condominium, holiday home, etc.) or the reasons and antecedents of registration at a new address. The registration of an address is a declarative action and does not generate any rights. The purpose of the Act is to register personal data (i.e. residential address), which are required in order to satisfy the law-based data supply requirements of public administration and judicial authorities, local governments and other natural or legal persons. Thus, individuals may also register themselves at addresses in Miskolc who previously received compensation in exchange for their rental rights and used the amount to purchase a real estate outside the administrative territory of Miskolc County city, on which restraint on alienation and ban of debiting was registered.

It is important to stress again that the possibility to terminate a rental contract by mutual consent and with the payment of compensation does not extend to users of homes living in flats belonging to the municipality without any legal title. Such a situation can occur if an agreement between the tenant and the landlord, concluded for a definite period, has expired, and no new rental agreement is concluded between the parties, but, contrary to the obligations, the tenant does not leave the property. The same situation may also occur when a rental agreement concluded for an indefinite term is terminated due to breach of contract by the tenant (e.g. lack of rent payment), but the tenant fails to vacate the property. Pursuant to section 17 (1) of the Housing Act, upon termination of the contract the tenant **shall return** the property and the furnishing contained therein **to the landlord** in a condition suitable for proper use.

- Point 114:

The Hungarian Government welcomes the clarifications made at the second sentence of point 114, however, maintain that according to the Hungarian authorities, the dramatic increase in the number of applications for asylum in 2013 was not due to the changes in the regulation of detention of asylum-seekers.

- Asylum detention, introduced on 1 July 2013, is entirely different from alien policing detention, and mixing up these two legal concepts can lead to wrong conclusions. We consider that it is a wrong approach that the report draws far-reaching conclusions in respect of asylum detention based on outdated statements of other organizations (such as the reference to the statements of the 2012 Report of the UNHCR) which refers to alien policing detention. The report thus operates with invalid and not current data and draws critical conclusions based on them, such as the ill-treatment of asylum seekers in detention, because the cited Report of the UNHCR refers to the immigration detention, not the asylum detention.

It can generally be stated that the Office of Immigration and Nationality shows the utmost attention towards the rights of those in various detentions. Letters addressed to the authority responsible for the supervision of detention concerning objections, requests, complaints, notices of public concern, and letters written to human rights organizations shall be forwarded without delay. As a result, clients will have the opportunity to seek legal remedy in case their rights were violated. Social workers, psychologists and doctors who work in the reception centers are also all there to ensure respect for the right to life and human dignity of the foreigners accommodated therein.

The report makes a general statement of atrocities and ill-treatment suffered by asylum-seekers and people receiving international protection. Whenever a crime takes place, the competent authority initiates the necessary procedures, and all cases are investigated without exception.

- Point 115:

Concerning the second sentence of point 115, the Government is of the view that it is not correct, as asylum-seekers may not be detained in aliens policing detention. It further needs to be underlined in respect of the third sentence of this point that asylum detention of families with minor children may only be ordered exceptionally and as a last resort for a maximum of 30 days, taking into consideration the overarching and best interest of the child.

- Point 116:

Concerning the third sentence of point 116, we would like to underline that the UNHCR report referred to in this point was published in 2012, thus it may obviously not be relevant to the changed circumstances and to the asylum detention introduced on 1 July 2013. The use of the measures criticized by UNHCR (use of handcuffs and leashes) are defined by the legislation on the rules of police measures (Decree of the Minister of Interior 86/2012. (XII. 28.) BM). Nevertheless, it is worth mentioning that the authorities aim at reducing the number of transfers of foreigners in detention (be it detention of asylum-seekers or other foreigners in aliens policing detention) by allowing hearings to be made at the premises of the detention centers. Therefore, use of handcuffs and leash may be reduced to the minimum. This is a

priority to be taken into account in the development of existing detention centers and will be taken into account, should new centers be established.

- Points 122-124:

With regard to points 122-124, the Government notes that in addition to the Fundamental Law and Criminal Code referred to by the Report, Act No. CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities also includes anti-discrimination regulations.

In connection with the first sentence of item 130, we note that the preparations of clinical guidelines or medical protocols have already begun in Hungary. Until the finalization, Act No. CLIV of 1997 on Health Care regulates the quality of patient care. Accordingly, even in the absence of professional guidelines and legislation, the doctor is required to decide on the care of the patient on the basis of the available professional knowledge (eg. international guidelines). We consider it important to note that according to section 23. § k) of Act No. LXXXIII of 1997 on the Services of Compulsory Health Insurance, health insurance indeed covers 10 % of the total costs of the gender reassignment treatment, unless the aim of the intervention is to create genetically-defined external sexual characteristics due to malformations (in this latter case, the cover of the treatment is full). Legislative provisions allow the health insurance to provide subsidy, based on individual assessment, for the treatment of transsexualism – even in the case of beyond-label use of a medicine or hormonal product.

- Point 131:

The National Core Curriculum and the framework curricula have been developed in a system-approach. Therefore, the topics taught in schools are not focused on a single phenomenon, or a special social group, but taught in a broader context. The topic of sexuality may arise during the discussions in various classes. The discussion of this issue should not result in discrimination, and that is why it should not be handled from the point of view of a certain group or minority, but from social, or even global level.