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EUROPEAN SOCIAL CHARTER

Comments by non-governmental organisations on the
5th national report
on the implementation of the revised European Social Charter

submitted by

THE GOVERNMENT OF HUNGARY

(Articles 7, 8, 16, 17 for the
period
01/01/2010 – 31/12/2013)

Report registered by the Secretariat on 23 July 2015

CYCLE 2015

Comment of the FNV:

Article 7

Paragraph 5 – Fair pay

The Government usually presents two reasons to justify a lower minimum wage for workers below the age of 23, despite the fact that the principle of equal remuneration for work of equal value is supported by the Government:

1. to prevent young people dropping out education. Young workers might be tempted to start working without a proper education and qualification to enter the labour market at a suitable level.
2. to prevent an increase in youth unemployment due to increased hesitations by employers to employ young people with lower productivity for a normal wage.

As already mentioned in earlier comments, the FNV finds in these two arguments no justification for the age discrimination in minimum wages. Workers who are considered to be adults at 18 in most aspects and at 21 in all aspects, should according to FNV be entitled to a wage allowing an independent economic life. FNV finds the situation for young adults of 21 and 22 particularly distressing. An 18 year old worker receives € 658,- , while the full minimum wage is € 1446,60. One third of young people between 18 and 23 years old have an independent household. Young workers in the Netherlands and young adult workers in particular are worse off than their age peers in other European countries.

No adequate and convincing research has been done to assess the impact of abolishing the lower minimum wage for young adult workers. There is no research substantiating the statement of the Government that youth unemployment will increase. The FNV finds it more likely that the number of part time jobs for students will decrease as they no longer will be less expensive than regular, older workers, while in other jobs demand for young workers will remain unchanged or even increase. We already find that in the care sector and in technical professions employers are willing to accept in the Collective Bargaining Agreement that wage scales based on the youth minimum wage are being replaced by the normal scales based on job experience. The notion that young people by definition are less productive is outdated. Young adults can be energetic and they may master new skills.

The FNV refers to its earlier comments to specifically consider the situation of workers of 21 and 22 years of age. FNV is of the view that there is no justification for the current system of minimum wage fixing for young people

As regards apprentices' remuneration FNV distinguishes two groups, proper apprentices and those who follow a so-called BBL program. The latter group is learning on the job and perform productive labour for the larger part of their work week, the first groups' activities more support their (often higher level) education. Research (National apprentices monitor 2014, Stageplaza) shows that 23,5% of the apprentices do not receive any form of remuneration. Quite a significant part of the young workers in the BBL-program do receive the appropriate minimum wage, although this is often only the case when their employer is bound by a collective labour agreement. They are also protected by the labour laws because they work under an employment contract. However, many other workers in this group receive nothing, which is particularly distressing because they are not eligible for public financing of their education. Therefore, without having income, they have to carry all costs themselves.

EUROPEAN SOCIAL CHARTER

Comments by non-governmental organisations on the
5th National Report on the implementation of the revised European Social Charter

Submitted by

THE GOVERNMENT OF HUNGARY

(Article 7, 8, 16, 17 for the period 01/01/2010 – 31/12/2013)

Report registered by the Secretariat on 02/02/2015

EUROPEAN SOCIAL CHARTER

NGO's Information to the European Committee of Social Rights for consideration when adopting Conclusions with respect to the Eleventh Report on the implementation of the commitments undertaken in the Revised European Social Charter submitted by the Government of Hungary

(for the period until 31 December 2013)

Articles 7, 8, 16 and 17 of the European Social Charter



CFCF Chance for Children Foundation



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I. Introduction

This report has been compiled in April-June 2015 by selected volunteering NGOs (A Város Mindenkié, Chance for Children Foundation, Gyerekesély Közhasznú Egyesület, Habitat for Humanity Hungary, Menhely Foundation) and a research institute (Metropolitan Research institute) to reflect on the developments relating especially to Article 16 and 17 of the European Social Charter as included in the yearly reporting cycle, and to comment on the points made by the Hungarian Government in its 2015 February report on the same issues.

Section II contains our comments on Article 16, Section III the findings concerning Article 17. The Annex contains a case study of Miskolc, a Hungarian city, relevant to both Articles 16 and 17.

II. The social, legal and economic protection of families under Article 16 of the European Social Charter

A. General Introduction

Article 16 of the European Social Charter considers the family as a fundamental unit of society, and states that it has the right to appropriate social, legal and economic protection to ensure its full development. This should be achieved by means such as family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

The European Committee of Social Rights has repeatedly stated that the Charter is a living instrument, which must be interpreted in accordance with developments in the national laws of the Council of Europe member states as well as relevant international instruments, for example, the European Convention on Human Rights.

In its 2015 report on the period 2010-13, the Hungarian Government has included a comprehensive listing of the tools ensured by law that should serve families' wellbeing, and it responds to the issues previously addressed by ECSR - among others: evictions, ensuring adequate housing for families, improving the housing conditions of Roma families, the fate of the Making Things Better for Children Strategy, childhood placement opportunities (nurseries, kindergartens, and private options), counselling services for families, NOE's role, legal means of settling marital disputes (incl. mediation services), domestic violence issues and responses to them, protection of Roma families, and last but not least, what steps have been undertaken to comply with Article 16 of the European Social Charter.

In this report we shall discuss only some of the elements listed above.

We reflect in general on the issues contained in the given articles, in a slightly more focused discussion about potential target groups like families and children living in poverty and exclusion, e.g. Roma children and families facing homelessness.

Our starting points are, thus, the following articles of the Charter:

Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to **promote the economic, legal and social protection of family life** by such means as **social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.**

Article 17 – The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1.
 - a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the **care, the assistance, the education and the training they need**, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
 - b. to **protect children and young persons against negligence, violence or exploitation**;
 - c. to provide **protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support**;
2.
to provide to children and young persons a **free primary and secondary education as well as to encourage regular attendance at schools.**

B. Challenges in the provision of adequate social protection for low-income families in need

Since 2010, funding from the European Union has played a vital role in the social sector of Hungary. EU funds were targeted to combat poverty, to promote Roma inclusion as well as the integration of people living in poverty in general. The official plans and strategies of the government more or less were in accordance with the norms demanded by the EU – or at least until July 2014. Documents on child poverty, of which the National Social Inclusion Strategy (NSIS) is the most important, are nearly bursting with slogans on reducing social inequalities. On paper an adamant battle is underway against child poverty, Roma exclusion, and the widening of the gap between urban and rural regions. Hungary embraced the principles of the EU 2020 Strategy and joined the targets set by it for the country.

Data, unfortunately, tell a different story. Hungary is among the poorer countries within the European member states, and it is one the weakest in overcoming child poverty. All poverty

indices¹ (developed by the Hungarian Academy of Sciences for monitoring the Child Poverty Strategy which has been later in part incorporated into the NSIS) deteriorated between 2010 and 2013. This period “included the years of the economic downturn as well as the ones where improvements were apparent in other countries. Since Hungary’s responses to the crisis were more ineffective than most other countries’ and since 2010 the issue of reducing poverty have been insufficiently addressed, and the deterioration has been pushing Hungary downward on the list of European rankings. Although not justified by GDP figures, most of our EU indices describing poverty and child poverty have gone downhill. This has been particularly apparent in comparison to the 12 other new member states, and has been especially true for 2010 and afterwards. Since then only 2 of our 20 indices have improved while 12 have deteriorated. In many cases the poor performance appears permanent. With 10 of the 20 indices Hungary is in 25th to 27th place among the 27 countries.”²

According to the data of the Central Statistical Office (KSH) and Eurostat in Hungary the income poverty of 0-17 age children has risen since 2006-2007. 41% of children, 36% of households with children are poor or live in deprivation in 2013.

“According to recent data³ the proportion of income child-poverty in the poorest micro-regions (where about 1 million people live) amounted to 50-70 percent of the total compared to the national average of 23 percent.”⁴

“Several countries have made an effort to compensate families for the additional costs of raising children. Between 2006 and 2012 five of the EU 27 countries offered regular compensation for the additional costs of raising children, and the outcome was that their rates of poverty among families with children was less than average.”⁵ Hungary was among the countries that introduced mostly changes advancing the middle class, i.e. a tax allowance scheme that would be effective for families with middle to high income. Besides that, the country runs a wage-related child care payment, and a meagre, flat-rate but universal child care allowance, both offered to mothers of small children. However, problems in other areas seem not to be addressed, hence “... the negative gap between child poverty and overall poverty was the fifth largest of the 27 EU members in all the years investigated”⁶.

“In many countries the trends relating to the difference – whether positive or negative – between child poverty and overall poverty are persistent. (...) The various indices for child poverty rose by 0-10 percent between 2007 and 2010 and by 10-20 percent between 2010 and 2013. In every single case the situation of children and of families with children was worse than the national average. And in almost every single case the deterioration was worse

¹ Civil jelentés a Gyerekesélyekről, 2012–2013, http://www.gyere.net/downloads/Civil_jelentes_2012---2013.pdf

² Executive Summary. Our place in the EU. In. Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 358. http://gyere.net/downloads/Civil_jelentes_2012---2013.pdf

³ This information is based on research conducted by the Chances for Children Research Group of the Hungarian Academy of Sciences Social Science Research Group (up until August 2011 by the Hungarian Academy of Sciences Social Science Program Office to Combat Child Poverty). To date the group has published surveys on the situation and needs of children adolescents, and families living in 26 micro---regions.

⁴ Executive Summary. Living conditions in Hungary. In. Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 360.

⁵ Executive Summary. Our place in the EU. In. Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 359---360.

⁶ Executive Summary. Our place in the EU. In. Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 359.

between 2010 and 2013 than in the years immediately following the crisis when no measures were taken to protect the poor.”⁷

In Hungary, the deterioration in the situation of the poor and the widening of inequalities took place. The rise in inequalities is connected with redistribution instruments, like the across-the-board flat rate income tax which people with the lowest incomes are also required to pay (16%). Another is the family tax allowance which is connected with the number of children, which low income families cannot take full advantage of, given their deductible tax is lower than the potential allowance would be⁸.

One reason for the low income level is that Hungary still has one of the lowest employment rates in Europe. Admittedly, the employment rate has improved somewhat over the past few years, however, that is in connection with changes in the labour market statistics. The expansion of public labour projects which have become institutionalized and weakened other active labour market policies, and the employees abroad are also included among the active labour market participants. Since wages for public labour are well below the minimum wage and since such jobs are for less than 12 months/year, the program has noticeably improved conditions for some families only, and in general it has not effectively helped families with children escape poverty. It is reported to have contributed to the number of working poor people⁹.

Moreover, most benefits targeting families with children (family allowances, childcare assistance), are not indexed to inflation, some others have been considerably reduced (job-substitution support, regular social aid), or the conditions for accessing them have been tightened to reduce the number of eligible households. “About half of unemployed people) are now excluded from all benefits” due to the lack of eligibility”¹⁰. It means approximately 246 000 individuals according to the data of the first half year of 2014.¹¹

Along with the relative increase of the lower income groups,¹² a series of measures that violate the universal human rights of the poor and deprive them of their dignity. These include multiple and differing restrictive measures that may be taken by local governments, often setting harsh and authoritarian conditions for receiving assistance such as the cleanliness of the home¹³, as well as administrative decisions on the right to receive benefits or to get community work that cannot be appealed.

⁷ Executive Summary. Our place in the EU; Living conditions in Hungary. In: Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 359---360.

⁸ The problem is only partly solved from 2014 onwards when the tax credit may also be deducted from the social security contribution.

⁹ TÁRKI report on the NSIS (2014): Társadalmi folyamatok magyarországon a nemzeti társadalmi felzárkózási stratégia elfogadásának időszakában -- 2009---2012, http://www.tarki.hu/hu/news/2014/kitekint/20141024_ntfs_monitoring.pdf

¹⁰ Executive Summary. Living conditions in Hungary. In: Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 360.

¹¹ Employment and public work. In: Ferge – Darvas (eds). (2014) *Alternative Report on Chances for Children*. Budapest: Chances for Children Public Association (GYERE). p. 237. (available only in Hungarian)

¹² TÁRKI (2012): Egyenlőtlenség és polarizálódás a magyar társadalomban http://www.tarki.hu/hu/research/hm/monitor2012_teljes.pdf

¹³ Even the Ombudsman has condemned such operations, especially in Roma neighbourhoods, which included the inspection of one’s fridge as well as bathroom.

Analyzing the legislation makes it clear that most government measures – despite often heard rhetoric claiming the opposite – in nearly all cases fail to address the reduction of social inequalities, poverty and exclusion. Details in the regulations (such as changes in entitlement conditions) or deep-reaching transformations in the contents and organization of institutional systems (such as the education system or the community work system) make it difficult if not impossible to attain the goals set down in the NSIS.¹⁴

The political will to alleviate poverty, integrate the Roma, and reduce regional inequalities has only formally led to identification of the objectives of reducing child poverty and preventing its reproduction. Whatever tools relevant social policies have employed have been weak or counterproductive and the outcomes are discouraging. If present trends continue, the Hungarian government will not be able to fulfil its own EU 2020 goals even if the targets have been slightly alleviated by the EU because of the economic crisis.¹⁵

C. Lack of effective housing policy for the poor

The general trend regarding state expenditure on housing and housing subsidies for the years 2010 and 2013 shows that most subsidies targeted families with middle or higher income or consumption levels, and much less those who actually live in housing poverty – who, depending on the indicators used, take up app. 1,5 million people.¹⁶ By providing support to different types of housing loans, savings, and interest rates, this kind of state spending aims at shoring up property ownership, and generally helping the middle-class.

In 2010 a significant part of state spending on housing was put into financing the subsidised housing loan program of the 2000-2004 period, which still had costs dragging on from that time.¹⁷ Subsidies for interest rates, mortgage and other type of loans, and for allowance on the income tax took up around 140-150 billion Forints, amounting approx. to 72% of the total housing expenditure. Although, socially targeted spending was expanded a bit, still the majority of state spending on housing was directed at supporting home ownership and middle-class families in 2012 and 2013 as well.¹⁸ In 2013, a larger part of socially targeted spending was dedicated to housing maintenance subsidies and the debt reduction service, on financing the National Asset Management Company (which was created to save those who defaulted on foreign exchange denominated mortgage loans) and on home-building grants (“szocpol”).

From 2012 to 2013 the amount of resources spent on the National Asset Management Company (which, by the end of 2015 is likely to take over the ownership of app. 24000

¹⁴ see also the civil society monitoring reports on the Hungarian NSIS, available at

<http://www.romadecade.org/civilsocietymonitoring>

¹⁵ see also above mentioned TÁRKI monitoring rept.

¹⁶ Habitat for Humanity Hungary, Annual report on housing poverty 2013, 2014.,

<http://www.habitat.hu/en/tudaskozpont/annual---report---on---housing---poverty---2013---english---summary?id=47>

¹⁷ Habitat for Humanity Hungary, Annual report on housing poverty 2011, 2012.,

http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegről_2011_Habitat_for_Humanity_Magyaror_szag.pdf.

¹⁸ Habitat for Humanity Hungary, Annual report on housing poverty 2012, 2013.,

http://www.habitat.hu/files/jelentes_veglszoveg_web.pdf;

Habitat for Humanity Hungary, Annual report on housing poverty 2013, 2014.,

<http://www.habitat.hu/en/tudaskozpont/annual---report---on---housing---poverty---2013---english---summary?id=47>

housing units) and on other forms of support for people with foreign currency denominated loans was boosted,¹⁹ whereas the state budget expenditure on housing maintenance subsidy and debt management service, and on services for homeless people did not change significantly. There were no major state interventions to help people in housing crisis, other than those with foreign currency loans. Even among the measures directed at them,

The affordability of housing is one of the major problems and the causes of the housing problems in Hungary. Housing costs take up a very high and a growing share of households budgets: in 2010 according to Eurostat it was on average more than 25% of people's income,²⁰ and in 2012 it jumped to 27% or (according to some estimates) even to 30% of income.²¹ This figure decreased probably by around 1,5% in 2013, mainly due to the central program of decreasing housing utility costs.²²

Many of the households have accumulated arrears, and the housing indebtedness is a significant risk factor regarding the loss of homes and the increase in homelessness.²³ Nevertheless, the figures on evictions in the reference period also point to a growing insecurity of housing in general: for 2012, the CSO reported 966 evictions from municipal rentals (public housing tenancies),²⁴ and the judicial executors performed app. 500 evictions in the same year. The figures for 2009 were 667 and 367 respectively.²⁵

The burden of housing costs disproportionately affect poorer households, especially if they live in homes with worse energy efficiency, and thus are faced with much higher energy and maintenance bills.²⁶ One third of the households in the lowest fifth of the income scale have to spend around 40% of their budgets for housing costs, which is very high and often endangers the welfare of the family.²⁷

Housing cost arrears have constituted a severe problem especially for households in the worst income and financial situation. In 2009 more than 300 thousand households had arrears beyond 90 days towards utility companies.²⁸ The regulation was amended regarding non-paying consumers in 2011, which allows utilities to be cut off already after only 60 days of arrears (electricity and gas), with the exception of certain selected household types like single

¹⁹ Data request from the National Economic Ministry, 2014., also published in

²⁰ Eurostat, Statistics on Income and Living Conditions (SILC), Share of housing costs in disposable household income, by type of household and income group

http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_mdcd01&lang=en

²¹ 2012 Annual Report of Habitat for Humanity Hungary, 2013,

http://www.habitat.hu/files/jelentes_vegliszoveg_web.pdf.

²² Eurostat, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_mdcd01&lang=en

²³ According to a survey conducted among homeless people in 2013, indebtedness is the second leading reason among homeless people both in the countryside (15,5%), and in the capital (14,2%), Changing and unchanging faces of homelessness, 2013, available at

www.bmszki.hu/sites/.../valtozo_es_valtozatlan_otthontalanul_9.pdf

²⁴ Data provided by the housing department of CSO in a mail exchange.

²⁵ see also Hungarian national report in WP1.

²⁶ 2011 Annual Report of Habitat for Humanity Hungary, 2012,

http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegről_2011_Habitat_for_Humanity_Magyaror_szag.pdf

²⁷ Eurostat, Statistics on Income and Living Conditions (SILC), Housing cost overburden rate by income quintile <http://epp.eurostat.ec.europa.eu/tgm/refreshTableAction.do?tab=table&plugin=1&pcode=tessi162&language=en>

²⁸ 2011 Annual Report of Habitat for Humanity Hungary, 2012,

http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegről_2011_Habitat_for_Humanity_Magyaror_szag.pdf

parents with children. According to data from 2012, there were more than 115 thousand households that had been cut off from electricity.²⁹ Also in 2012, households in the lowest fifth of the income scale had to spend 46% (almost half) of their income on housing costs, which is extremely high in European comparison, and leaves little room for other consumptions, not to mention savings for hard days.³⁰

In relation to this, in 2010 approximately more than 10% of the population experienced difficulties at least once in heating their homes due to financial shortages,³¹ which indicates a serious energy poverty problem. According to a research by TÁRKI the percentage of people not being able to heat their homes properly (at least once) jumped from 20% to 27% from 2009 to 2012.³²

On a yearly average, around 200-250 people die of hypothermia, most of them in their own homes, which they are not able to heat properly.³³

There are two main state measures, which in a more or less socially targeted way, assist families with their housing costs. These are the housing maintenance support (“lakásfenntartási támogatás”) and the debt management service, the later was only compulsory for townships with more than 40 thousand inhabitants.

In the reference period, the housing maintenance support was provided in a central, normative way and additional schemes were run also locally, by local governments. The conditions to receive this subsidy were determined by the per capita income and the size of the homes. In 2010, around 290 thousand people received the central subsidy (part of them also receiving in kind support, such as fire wood), and another 74 thousand received it on ‘fairness’ grounds, that is, based on the local additional schemes. So altogether around 360 thousand households, around 9-10% of the all households were provided with some form of housing maintenance support.³⁴ The average amount of this subsidy per household was not very high, € 174 in a year for the normative (€ 15/month), and € 130 on fairness grounds (€ 11/ month). The design of the scheme, however, would not let finance more than 10-15% of the normative housing consumption costs, which indicates that the replacement ratio of the subsidy was very low, and thus it failed to strengthen the security of homes. However, because it was a regular support, it meant a valuable assistance for the socially and economically most deprived families. Nonetheless, a significant raise in the amount of the subsidy and an extension in the number of the beneficiaries would have been needed in order to create a socially effective tool to prevent grave housing indebtedness.

A positive amendment in 2011 was the increase in the number of people entitled to receive normative housing maintenance subsidy. As a consequence, households with a bit higher income were also able to get this subsidy (this was a trade-off when the until-then normatively run gas price and district heating subsidy’s resources were cut and transferred into the housing

²⁹ Szabó M. I. (2012.06.25.) Gázzsámlla: nincs több kikapcsolás, de nő a tartozás / Gas bill: no more cutting off, but the debt is growing, http://hvg.hu/gazdasag/20120622_Gazszolgaltatasbol_kikalcsolva

³⁰ Central Statistical Office, Statistical mirror: the monthly consumption of households in 2012, 2013.

³¹ *Ibid*

³² TÁRKI Research Institute, TÁRKI monitor report 2012, http://www.tarki.hu/hu/research/hm/monitor2012_teljes.pdf

³³ 2011 Annual Report of Habitat for Humanity Hungary, 2012, http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegről_2011_Habitat_for_Humanity_Magyarország.pdf

³⁴ *Ibid*

allowance scheme). The number of recipients of home maintenance subsidy in late 2011 was 35% higher than a year before, that is 486,000 households received this subsidy compared to 361,000 households in the previous year. However, the average annual amount of subsidy for one household decreased to 78% of the amount in the previous year (this means € 13 per month on average). In 2011, a total of 84,000 households received housing allowance, and about 53,000 of them did not receive any normative housing allowance³⁵.

In 2012 close to half a million people received housing maintenance support, with an average monthly amount of € 13, which 6,5% higher than the year before.³⁶ However, this amount still lags far behind the amount people received before the gas- and district heating subsidy was abolished, and it only covers approximately 10% of the housing costs even of the most deprived households. The state altogether spent 22,2 billion Forints on this subsidy in 2012. Half of this subsidy was provided as in kind support (either transferred directly to the utility companies or provided in the form of fire wood).

The other major measure, though reaching only a marginally small group, was the debt management service. This was in course improved by the introduction of the debt management advisory service, and the additional housing maintenance support, which is granted to those using this service. So its three components include a debt-reduction, housing subsidy and financial advice. However, still the reach of this service was rather limited, it could not address the problems of very low income at certain families.³⁷ It was only compulsorily available in locations with over 40 thousand population, and its entitlement criteria, the amount and the required down payment were also relatively restrictive. In 2010 there were around 13-14 thousand people who were provided this service on a regular basis.³⁸ It especially had a very limited reach in smaller locations, as it was serving only 700 households in townships with 10 thousand or less inhabitants.³⁹ This is despite the fact that most households in need of support (in relation to their housing costs) are located in smaller places and rural areas. The number of those benefiting from this service in 2010 was 19857, receiving around 94500 Ft per person, whereas in 2011 it was slightly higher 19892 people getting around 94800 per person.⁴⁰ In 2011-2012 the annual state spending on this remained below 2 billion Forints, which can be considered a rather insignificant amount in the state budget.

In 2012 there was a serious restriction on the provision of the debt management service: once someone took advantage of this service, instead of 6 months they had to wait for 24 months to apply for the service again.⁴¹ Moreover, those who are unable to pay their bills properly for 3 months while using the debt management service could be shut out of applying to the service for up to 48 months, that is four years. As a consequence of these restrictive steps, the number of those taking advantage of this service could have dropped by up to one third. In 2012 the number of beneficiaries fell to 13450 from 19800 in the previous year, and the overall amount was also reduced to 1,4 billion from 1,8 billion in the year before. However, the per capita amount went up from € 298 to € 335. In 2013, there were around 7000 beneficiaries.⁴² This

³⁵ Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Hungary, 2013, www.habitat.hu/files/civil_society_monitoring_report_en.pdf

³⁶ 2013 Annual Report of Habitat for Humanity Hungary, 2014, http://www.habitat.hu/files/Lakhatasi_Jelentes_2013_hosszu.pdf

³⁷ *Ibid*

³⁸ Central Statistical Office, 2010 Annual report of social statistics, 2011.

³⁹ 2011 Annual Report of Habitat for Humanity Hungary, 2012, http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegről_2011_Habitat_for_Humanity_Magyarország.pdf

⁴⁰ Central Statistical Office, <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/csaladsegito.pdf>

⁴¹ 2012 Annual Report of Habitat for Humanity Hungary, 2013, http://www.habitat.hu/files/jelentes_veglszoveg_web.pdf

⁴² E---mail information provided by the line ministry (EMMI)

shows that the expectations of the indebted households changed with regard to the state's role, which was campaigning to "rescue" the indebted families (those indebted with loans).⁴³

Other housing cost reduction measures of the recent years were the cuts in utility costs. The central energy costs reduction measures – which were introduced in several steps starting from September 2012 – have only marginally been effective in alleviating the burdens of housing costs for those most in need, especially because this is a regressive benefit form, and many needy households would have been disconnected from some of the services already.⁴⁴ The cost reduction has not been socially targeted, thus it favours households with higher consumption more, and means no help at all e.g. for those 80% of Roma households who use wood for heating.⁴⁵

D. Failure to provide housing to families with children after eviction

The government's report states that residents unlawfully occupying homes are evicted in Hungary. There are no detailed statistics on the social composition of the evicted families in Hungary,⁴⁶ however, NGOs working with these families state that for instance, families in arrears were and are in fact evicted, as well as families whose contract was not renewed by the municipality or the temporary family home (see below), and families who rented public property etc.

Nevertheless, as to residents of an illegal status, the ECOSOC clearly states that they must not be forced to leave their homes without alternative housing opportunity having been offered to them. However, the fact that existing Hungarian law does not oblige the state or municipalities to consult stakeholders for an alternative solution instead of eviction (let alone work out alternative solutions as preventative measures), or to actually provide such an alternative solution, only means that existing Hungarian law does not comply with international conventions. This state of affairs must be changed.

The report of the government claims that „The civil law instruments are not suitable for preventing homelessness or supporting families in need”. However, the Hungarian government does not take any other steps to prevent homelessness or support families in need

⁴³ After the reference period, In major overhaul, both the centrally provided housing maintenance support and the debt management service were abolished by the 2015 Budget Support Act of 2014 (adopted in December 2014, and in effect from 1 March 2015). As a consequence of this reform the state put it in the hands of the local governments to decide whether they would provide housing maintenance support or debt service as part of their local settlement support – similarly to the situation prior to 2003. The less wealthy settlements (those with lower tax--collection capabilities) receive a frame financial support for this purpose, however, it is not regulated that they would have to necessarily spend it on housing costs support. As a consequence in 2015 housing costs support and housing debt alleviation is regulated in more than 3000 ways, according to local decrees. Dangerously many of these local decrees make these benefits dependent on strict and often privacy--intruding living environment inspections.

⁴⁴ 2011 Annual Report of Habitat for Humanity Hungary, 2012,

http://www.habitat.hu/files/Eves_jelentes_a_lakhatasi_szegenysegro_l_2011_Habitat_for_Humanity_Magyaror_szag.pdf

⁴⁵ The situation of Roma in 11 EU member states, May 2012, <http://fra.europa.eu/en/publication/2012/situation-roma-11-eu-member-states-survey-results-glance>

⁴⁶ E-mail information received from the Chamber of Judicial Executors.

either. Practically the number of social housing units has been decreasing despite a social housing construction scheme in the early 2000s (more dwellings were privatised or demolished than the 12000 constructed); as a result, the number of social housing units was constantly decreasing (now it is one the lowest in the EU, approx. 3%). The National Asset Management Company's large scale social housing procurement (it takes over the ownership of defaulted mortgagors' homes, by the end of 2014 of app. 25000 families) does not serve better access for additional vulnerable households to affordable housing, either. Monetary and in kind housing support as well as housing related family support services are small scale and constantly cut back (see in more detail above). E.g. the City is for All (AVM) group firmly states that the right to private property does not overrule the right to life and human dignity (see the groundbreaking resolution⁴⁷ of the European Court of Human Rights in [Ceesay v. Spain](#)).

Residents of an informal status are discriminated against in many ways, e.g. they cannot access social benefits because of lack of registered address. Also, the winter moratorium that protects people facing eviction during winter months does not apply to squatters. In case they cannot prove that they live in their place for more than 60 days, they may be evicted without a court order. Moreover, their right to legal remedy is also violated as even if they appeal the eviction decision, the appeal procedure does not have a suspensory effect.

In most cases when an eviction takes place, families are not offered an alternate solution for housing, and are usually excluded from further chances of social housing. Parents usually do not dare make an official complaint, as they then can be threatened by the removal of the children into state custody, while the parents would be offered a homeless shelter at the most.

E. Failure to offer quality accommodation in form of temporary homes for families

An alternative housing solution for homeless families is the so called "temporary home for families". These are in fact mass shelters, that is, families live together with other families, share bathrooms, toilets, and the kitchen, often they even share rooms (mostly in the case of the so called mothers' homes). Furthermore, in most of these homes families are put in one single room (all the adults as well as the children). This state of affairs violates residents' right to the privacy of their family life.

Many people, who live in such homes complained to AVM that they are closely controlled by social workers – they have to ask for permission even regarding minor questions and their everyday lives are under constant surveillance, especially the way in which they care for their children. Sometimes they are even threatened with their children being taken into state custody.

As their name shows, these homes should provide only a temporary solution. Families can stay for 2 years at most, if their contract is renewed after a couple of months or one year. The renewal decision is fully at the discretion of the management of the institution. For instance, if the family is behind with paying the monthly fee, the contract is often not renewed, which can lead to the family becoming homeless. During their stay, the employees of these institutions put a large pressure on residents to find alternative housing for themselves, in many cases

⁴⁷ Sixteenth session (1997), General comment No. 7: The right to adequate housing (art.11 (1) of the Covenant): Forced evictions.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f6430&Lang=en

without providing adequate support for the family in this search. Any family may be evicted from these homes as they do not have a legal obligation to find alternative housing for the families being expelled.⁴⁸

There are no functioning advocacy bodies in these homes. Hence, if someone is mistreated or finds it unjust to have to leave the home, they may only turn to the head or the management of the institution (or to the Court), if they know where to turn to in the first place (which is often not the case). And in case they file a complaint, there is very little chance that they are adequately redressed, and they cannot stay for the duration of the appeal procedure either.

There is no standardized admission procedure in the case of temporary family homes. It is not the responsibility of the municipality to find a place for a family becoming homeless, but rather the responsibility of the family. The rules for application change from institution to institution: in some institutions people need to apply in person, in others they need to call first, yet others require applications via email, different documents are to be submitted, and different criteria has to be fulfilled. Most homeless families cannot afford public transport or making calls and do not have access to the internet, therefore, it is a very difficult process for them without adequate help. Moreover, many of these homes accept applications only from certain locations.

Even if the family is selected for an admission interview, they often need to wait for months until the final decision. Temporary family homes do not have a legal obligation to accept anyone – no matter whether one is expecting a child or caring for minors. Therefore, even if the person is expectant, it often happens that she does not get admitted anywhere. In this case newborn babies are taken into state custody right in the hospital, in spite of the Child Protection Act (Article 7, Section 1) explicitly prohibiting the institutionalisation of children for merely financial reasons.

The admission procedures are not transparent in general – families do not know who gets admitted, through what procedure and on what basis/for what reason. AVM has come across cases in which the family was told on the phone that they were put on the waiting list and later it turned out not to be the case.

Institutions clearly (though not explicitly) favour families with more children as they receive more state funding for such residents. This discriminates against families with one child and expectant mothers, who will therefore find it even more difficult to find housing for themselves.

There are clear geographical inequalities in the availability of temporary family homes: in Budapest, existing institutions are always full and have long waiting lists, whereas in the countryside, where job and other opportunities are much more scarce, capacities are not made use of. Only settlements with more than 30,000 inhabitants are expected to maintain such services – which means residents of smaller settlements are at a disadvantage. The law also allows for subcontracting such a service, which means for example, that a temporary home for families in Kerepes⁴⁹ can sign a contract with several municipalities, and receive homeless families from various districts in Budapest as well as smaller towns, leaving those districts

⁴⁸ AVM has a member who has been expelled from a temporary family home, where she had been living with her baby (couple of months old) and her abusive partner as social workers claimed she was aggressive – however, they did not deal with her being abused by her partner. Soon after she has been expelled, her partner left the institution voluntarily, which resulted in the baby being left there alone and therefore, being taken into state custody (in which he still is today).

⁴⁹ Kerepes is a small town of 10 000 inhabitants 20 km from Budapest. The example is real.

and towns without a service on site. Hence, homeless people will not find any temporary solutions there for them but will be advised to find their way into the home in Kerepes (for which they may not have the means), which has only limited space. Moreover, temporary family homes are in general not accessible for people with disabilities and they do not offer any specific services for this clientele.

This is also linked to the fact that municipalities in general do not welcome homeless people and families as their local registered citizens and hence, beneficiaries. AVM had cases in which a family was offered a room in a temporary family home so that they can be evicted from social housing in Budapest. Temporary family homes are financed from the central budget, therefore, municipalities are financially incentivized to place people into such homes instead of offering them municipality (social) housing.

F. Failure to provide protection for families in poverty to keep custody of their children

Families with children are overrepresented among residents of substandard housing. More than 170.000 children live in housing without inside toilet and 136.000 live in housing without a shower or a bathtub in it in Hungary. 30% of all children (ca. 620.000 children) live in housing with a leaking roof or wet/mouldy walls/floor/base⁵⁰.

Overcrowded housing is closely linked with poverty: 70.1% of families who live in poverty live in overcrowded housing, while only 28.4% of the highest income decile live under such circumstances. Larger families are more prone to overcrowded housing: 65% of families with children and 78.1% of families with 3 or more children live under such circumstances. It means 0.8 resident per room in the case of people living in rented apartments or living in poverty (under 60% of the median income level) and 0.6 resident per room in the case of poor families with children⁵¹.

120.000 people live in social or child protection institutions in Hungary, many for not being able to provide adequate housing for themselves. Merely 3% of institutional places are in small-scale residential homes, an overwhelming majority are in mass institutions. One-third of children taken into state custody (more than 3700 children) are forced to live in an institution, in many cases separated from their families, due to earlier housing problems⁵².

In 2011, merely 20% of youth was able to move their own property after leaving foster care. 14% moved to rented apartments and 23% moved back to their original families. 25% move to places unknown to authorities and the **estimated ratio of young people leaving foster care to become homeless is 40%**⁵³. The support that the state provides for these youths (on the basis of the Child Protection Act) is not sufficient in the current housing market (the highest amount one may get is 1.7 million HUF that is only a fraction of the cost of even a small used apartment in a city, or would cover a house in an very poor location with no job opportunities and is worth only 2-3 years of the rent of a small rented apartment)⁵⁴.

⁵⁰ Annual report on housing poverty by Habitat for Humanity Hungary, 2013.

http://www.habitat.hu/files/Lakhatasi_Jelentes_2013_hosszu.pdf

⁵¹ *ibid.*

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ Annual report on housing poverty by Habitat for Humanity Hungary, 2012.

http://www.habitat.hu/files/jelentes_veglszoveg_web.pdf

In many cases, the reason for taking a child into state custody is the poverty or housing problems of the family, despite the fact that – as the report of the government also points out – the Child Protection Act clearly states that “children shall not be separated from their family due to vulnerability resulting from financial reasons alone” (Article 7, Section 1). In fact, the reason most often given by the authorities for taking a child into state custody is “housing problems” that is also recognized by the government report (p. 64).

According to the research of Vera Kovács et al.⁵⁵, the occurrence of financial reasons in official decisions ordering the state custody of children doubled in the past 10 years. And these cases are clearly concentrated geographically: 25% of such cases take place in the 8th, 9th and 10th districts of Budapest.

This practice not only causes personal/family tragedies, but also an enormous financial burden for the state: the foster care of one child costs 1.1–2.5 million HUF per year depending on whether the child is placed in an institution or with foster parents. Moreover, it generates further social problems as children being raised in foster care struggle with serious problems such as becoming homeless, being forced to prostitution or becoming addicted to drugs.

Even though the report of the government states that “Accordingly, the Child Protection Act entitles the parents to receive information about the services aimed at helping them to raise their child and receive actual help to raise their child. The system of child protection provides different services in cash and in kind in order for the child to be raised in their own family, and under basic child-welfare provisions it also provides services to the child and the family.” (p. 63), the very high and ever increasing number of children taken into state custody for financial reasons demonstrates that many families in need do not get adequate support to raising their children.

A number of women who turn to AVM because their children were taken into custody due to the family’s housing problems report that their children were often placed far away from them and they did not receive travel support for being able to visit their children (such support is not automatic, but provided upon the discretion of the municipality where the parent lives). Furthermore, in contrast to what the Child Protection Act states as a principle and to what many parents want, siblings are very often separated when taken into state custody – often for reasons unknown to the parents.

As to counselling services for families, the report of the government does not provide any concrete details of available services in Hungary. AVM’s experiences demonstrate that the so called family support service providers and child welfare centres are severely underfunded and therefore cannot provide meaningful support to families. The actual performance of service providers is not adequately monitored, there is no quality control, hence, service providers do not get meaningful, constructive feedback on their work. Nevertheless, what they very often do is patronizing families, blaming them for their difficulties and threatening them to take their children into state custody.

Experts⁵⁶ also recurrently report the malfunctioning of the so called signalling system that is supposed to watch over the wellbeing of the child from many angles (through the school, the doctor, the family support centre, the child welfare authority etc.) An increasing number of scandalous cases have been published in mainstream media in which the severe mistreatment of the children was discovered long after the actual occurrence of the mistreatment demonstrates the acute lack of capacities, skills and often competence on the part of the

⁵⁵ Kovács Vera: Statistics and cost-analyses about children taken into state custody for financial or housing-related reasons, *Esély* (forthcoming).

⁵⁶ See an interview with Lena Szilvási, child protection program director of SOS Children’s Villages Hungary <http://gyereksorsok.hu/2015/03/26/lassu---tuzon---sutogetik---a---csaladot/>

signalling system (e.g. the example the above expert discusses as a paradigmatic example of multiple system failures).⁵⁷

G. Failure to protect victims of domestic violence

Intimate partner violence is a primary reason for women's homelessness in Hungary. However, the state does not provide adequate protection, neither adequate services for the victims. According to the estimates of the Council of Europe, a Hungary-size country would need about 10.000 shelter places for survivors of gendered base violence, whereas the actual number of such places in Hungary is 98 + 29 (see government report, p. 77-79). Most of these places offer only very short-term, crisis support and none of these places meet international standards.⁵⁸ Hence, a lot of women become homeless as a result of exiting from an abusive relationship, and even more women remain in such relationships due to the lack of any exit options and thus, continue experiencing violence in their home.

Some of the temporary family homes maintain crisis places for victims of domestic violence, some of which are safe, secret places. However, the actual performance of these institutions is not monitored in a transparent manner and many do not provide specific professional support for the victims that is based on an up-to-date knowledge on violence against women. AVM has experience with cases when domestic violence was clearly mistreated – for example when social workers invited the perpetrator to the shelter as a „peacemaking” effort – in spite of the explicit objection of the victim – and he later physically abused the woman on site. The government report refers to the National Level Crisis and Information Telephone Service (Országos Kríziskezelő és Információs Telefonszolgálat, OKIT) as an important resource for victims of intimate partner violence, however, due to the lack of shelter places, and even more importantly, the lack of supported housing opportunities, OKIT very often is not able to provide meaningful support for the victims who turn to them, especially not help with housing. We highly recommend to the Committee that they request official statistics from the government on the actual performance of OKIT – how many people call them in one year, with what kind of problems and what kind of support and follow-up OKIT could actually offer to them.

H. Failure to offer quality housing /inclusion to Roma families

Roma people in Hungary (like generally in the Eastern and Southern European region) are overrepresented among the most disadvantaged and poorest people, and there is a wide gap between the social and economic situation of the Roma and the non-Roma population, which naturally affects their housing conditions too. Some form of ethnically disaggregated data collection has been existing since 2013, for times before that it is difficult to ascertain distinct figures about the social and housing conditions of the Roma population. Research and sample surveys indicate a significant development gap between the Roma and the non-Roma Hungarian population. According to the 2011 Survey of the UNDP/EC/World Bank around

⁵⁷ See an interview with Lena Szilvási, child protection program director of SOS Children's Villages Hungary
<http://gyereksorsok.hu/2015/03/26/lassu--tuzon--sutogetik---a---csaladot/>

⁵⁸ Fundamental Rights Agency (2014): Violence against women: an EU-wide survey.
<http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

more than 80% of Roma live in households at risk of poverty,⁵⁹ while this number is below 40% for non-Roma. Romani communities are also disproportionately present in the most disadvantaged regions of Hungary, where severe problems of high unemployment rate, bad housing conditions and lack of access to quality education are much higher than elsewhere. Around 15% of the Romani population lives in Borsod and Heves counties, which also have many disadvantaged areas.⁶⁰

On general, most research shows that Roma are disadvantaged compared to non-Roma in all dimensions of housing poverty, and are disproportionately affected by all negative aspects of the housing problems. These include the decreasing affordability of housing expenses (on average from close to 20% of the household income in 2001 to more than 23% of it in 2009 was spent on housing expenses),⁶¹ the poor quality of housing, and the lack of access to basic infrastructure. Due to the very low level of rental housing in Hungary, even many low-income families (among them many Romani families) are forced into the home ownership sector, which often ties them down to remote and poorer locations.

The FRA/UNDP survey also shows considerable differences, to the advantage of non-Roma, regarding the average number of persons per room, which is app. 1.1 for non-Roma, whereas it is double of that, 2.2 for non-Roma. On average a Roma person has 22 square metres of living space, whereas it is 41 for non-Roma. Similarly, much higher proportion of Roma (around 44%) live in households without at least one of the basic amenities such as indoor kitchen, indoor toilet, indoor shower / bath, and electricity, than non-Roma (16-17%). According to a research conducted in 2010 by the National Family and Social Policy Institute⁶² 21% of the respondent Roma live in households without access to (safe) pipe water, as opposed to only 5% of the non-Roma population. 40% of the Roma respondents indicated that they have problems with their windows and doors, and one third of their homes had leaking roofs, and close to half of them complained about wet walls. More than half of them have arrears in some utility or housing costs. All in all, compared to the 8% of the non-Roma population, around 29% of Roma live in bad quality housing in Hungary.

Disparities stem to a great part from the territorial inequalities (a higher proportion of Roma, around 60% of them, live in rural, often more disadvantaged areas), but are also caused by ethnic discrimination, as there are significant differences among Roma and non-Roma even in the same localities.⁶³

One of the most serious housing problem facing Roma is segregated living, which is also often associated with lack of adequate access to basic services (such as safe drinking water, sanitation, electricity). According to research estimates from 2009, the proportion of Roma living in somewhat segregated environment is very high, around 45-55%.⁶⁴ This figure could

⁵⁹ Households at risk of poverty are defined as those whose equivalised income is below 60% of the national median equivalised disposable income.

⁶⁰ Decade of Roma Inclusion 2005-2015, Progress Report 2012, http://www.romadecade.org/cms/upload/file/9276_file7_progress-report-hu.pdf

⁶¹ Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Hungary, 2013 http://www.romadecade.org/cms/upload/file/9270_file8_hu_civil---society--monitoring--report_en.pdf

⁶² Kurucz, E (szerk.) Roma kutatások, 2010 - élethelyzetek a társadalom peremén, Nemzeti Család- és Szociálpolitikai Intézet, Budapest 2011, www.modernizacio.hu/download.php?id=589

⁶³ Kőszeghy, Lea Raxen National Focal Point Thematic Study: Housing conditions of Roma and Travellers, March 2009, http://fra.europa.eu/fraWebsite/attachments/RAXEN-Roma%20Housing-Hungary_en.pdf

⁶⁴ *Ibid.*

not have changed significantly in the following years. According to a 2010 survey,⁶⁵ a total of 1633 ghettos inhabited by poor (mostly Romani) people are located in 823 settlements and in 10 districts of the capital city, that is, in one-fourth of all settlements. 60% of the ghettos are located in (large) villages. A total of 280-315 thousand people (3% of the total population of Hungary) live in these ghettos. 14% of these segregated settlements are located areas that are not considered residential by local governments. In 77 of these segregated settlements there is not only no access to piped water, but also there is no public tap. 184 of these settlements have only dirt roads leading up to them.

Although, the National Social Inclusion Strategy (NSIS) of 2011 identifies the most severe housing problems affecting Roma, it fails to provide adequate answers to them. The measures listed in its Action Plan for the period 2011-2013 have not been fully implemented so far – or in some cases, there were measures that in fact contradicted the promises of the Action Plan.⁶⁶ The main housing-related measures of the Action Plan include: the overhaul of the housing subsidy system to enhance the security of tenure (if anything, this was changed for the worse in 2014 by abolishing the normative housing maintenance support, see above); programs targeting urban segregated and broken down areas; complex projects aimed at integrating segregated settlements (these measures have been launched since 2011, but they have reached only a fraction of the concerned urban areas or marginalised villages); the development of a framework for social housing (no central step taken in this regard beyond the National Asset Management Company's activity, the context and goals of which are disconnected from Roma housing inclusion). The steps taken by the government concerned more those who have difficulties in repaying their foreign currency mortgage loans, not so much the poorest, most deprived population.

One of the main problems with the policies and measures outlined in the NSIS is that there were not sufficient budget resources or EU funding allocated to actually implement them . This situation has not changed significantly over the past years. The other severe problem is that the measures outlined in the Strategy or the Action Plan are often contravened by mainstream laws and policies. The general housing policy measures - such as the preferential housing loan policy, the cash subsidy for home construction and purchase - aim mostly at middle class households or above, thus fail to reach most Romani families. The social rental sector has not been expanded, and the state-run social rental sector which is being developed is not targeted to those living in deep poverty and Romani families. Most measures listed in the NSIS were not implement, and thus could not bring significant improvement in the lives of Romani people in Hungary.⁶⁷

It was mostly EU funded programs that could at least partially bring some sort of improvement in the housing conditions of Roma. Regional Operational Programs (financed partly by the EU) were dedicated to the social rehabilitation of segregated neighbourhoods or areas in bad condition. However, many of these programs failed to reach Roma communities and due their design and eligible expenditure types they did not contain actual de-segregation measures.⁶⁸

⁶⁵ Domokos Veronika: Szegény--- és cigánytelepek, városi szegregátumok területi elhelyezkedésének és infrastrukturális állapotának elemzése különböző (közoktatási, egészségügyi, településfejlesztési) adatforrások egybevetésével, 2010. Készült az NFÜ megbízásából.

⁶⁶ 2012 Annual Report of Habitat for Humanity Hungary, 2013, http://www.habitat.hu/files/jelentes_veglszoveg_web.pdf.

⁶⁷ 2012 Annual Report of Habitat for Humanity Hungary, 2013, http://www.habitat.hu/files/jelentes_veglszoveg_web.pdf.

⁶⁸ 2013 Annual Report of Habitat for Humanity Hungary, 2014,

A pilot project launched in the Regional Operational Programs directly targeted Roma communities. Registration in the program for municipalities was publicized in 2012 in three regions, and 11 projects in three regions were given professional support during their planning phase until the end of August 2013. Finally, the South-Transdanubian Region has launched three programs – all of them in Pécs, The projects are still running at the time of reporting (June 2015).

A main problem with both the ROP pilot and the SROP-SIOP complex programs is that the system underwent substantial delay, which means there was a very limited time available for planning and implementation. This harmed the complexity of the measures and thus the sustainability of the projects. Also, the SROP-SIOP complex projects are facilitated by TKKI which exclusively has to provide the training elements within the projects, and with compulsory participation of the local Roma Minority Self-governments, some of which have never had any capacity to deal with such complex and large-scale investments.

The reference period has had substantial advancements in terms of equality based planning instruments, though. A significant equal opportunity measure was the introduction of the Desegregation Plans (DPs), which require local governments to prepare their DPs as part of their Integrated Settlement Development Strategies (ISDP) if there was data based evidence (delivered by the Central Statistical Office based on 2001 Census data) that they have a segregated neighbourhood. Positively all local self-governments were obliged to adopt their ISDPs from 2009, however, after the change of the law in 2011, it was only necessary to adopt one only when EU funds are granted for them. The development of Local Equal Opportunity Programs are also required to secure EU funds. Unfortunately many of these local programs fail to adequately address the issue of residential segregation.⁶⁹

One measure that was probably benefiting a few Roma families was housing support for labour mobility (the program is financed by SROP and run by the Labour Office). The high concentration of Roma people in the most-disadvantaged micro-regions and their lack of mobility is also one reason for low Roma employment rates. This support can be requested for up to 18 months if someone takes a job at least 100 kilometres away from her/his original place of residence and must commute at least five hours to get to work.⁷⁰

There was also a central grant to provide in-kind support for needy households heated by firewood during winter. Local governments could apply for the grant and then distribute it among the households. In the winter of 2013/4 over HUF 2 billion was to be spent on this scheme, reaching slightly more than half of all municipalities in Hungary).⁷¹

Otherwise, there were no national measures aimed specifically at improving the housing conditions of the Romani population. The mainstream housing measures mostly targeted

⁶⁹ As of 2014, all local governments have to have a Local Equality Programs in order to absorb any future EU funding. A review of the programs undertaken by TKKI clearly indicates further caveats of the documents.

⁷⁰ Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 and in 2013 in Hungary,
http://www.habitat.hu/files/HU_updated_civil_society_monitoring_report.pdf.

⁷¹ 57/2013. (X. 4.) Decree of Ministry of Interior Affairs on additional support to local governments in order to support needy households with firewood. Data are from the ministry's website:
<http://www.kormany.hu/hu/belugyminiszterium/onkormanyzati-allamtitkarsag/hirek/tobb-mint-1700-onkormanyzat-kap-tuzifa-tamogatast>

middle-class households and failed to reach the most deprived families. The cuts on utility costs are not socially targeted, and benefit households with higher income much more. The extension of the operation of the National Asset Management Company also only helped those who had defaulted on foreign currency loans.

I. Conclusions

The number of children living in poverty has been increasing. Universal child allowances do not provide adequate financial help, and low income families cannot take full advantage of the family tax allowance. Moreover, most benefits targeting families with children (family allowances, childcare assistance), are not indexed to inflation, some others have been considerably reduced (job-substitution support, regular social aid), or the conditions for accessing them have been tightened to reduce the number of eligible households.

A series of measures (f. ex. inspection of the “cleanliness” of one’s home) violate the universal human rights of the poor and deprive them of their dignity, while the lack of a clear definition of what is to be considered “cleanly” violates legal protection.

Families living in poverty do not receive adequate help to pay for housing. The housing maintenance support was very low and could not substantially increase the security of housing – and, in any case, since March 2015 it has been decentralized and in many settlements has ceased to exist, together with the debt management service. The number of social housing units is significantly inadequate, and has been decreasing.

Families evicted are usually forced to leave their homes without alternative housing opportunity having been offered to them. They are often excluded from further chances of social housing. It is the responsibility of families evicted to find accommodation on their own.

“Temporary homes for families” lack quality standards and are far less than the demand for them. They are not evenly distributed in the country, and families becoming homeless might have to move a considerable distance to find a placement. Decisions made by management are not transparent and often cannot be appealed.

Families struggling with poverty and/or housing problems do not receive adequate help, and the majority of children are removed from the care of their families for these reasons. Furthermore, children are often placed far away from their families, which seriously hinders visits.

Victims of domestic violence do not receive adequate protection, not are there enough safe shelter places for them. What exists often only offers very short-term crisis support, and the quality of these shelters is very low.

Roma are disadvantaged compared to non-Roma in all dimensions of housing poverty, and are disproportionately affected by all negative aspects of the housing problems. One of the most serious housing problems facing Roma is segregated living, which is also often associated with lack of adequate access to basic services (such as safe drinking water, sanitation, electricity). While the National Social Inclusion Strategy (NSIS) of 2011 identifies

the most severe housing problems affecting Roma, it fails to provide adequate answers to them, and the measures listed in its Action Plan for the period 2011-2013 have not been fully implemented so far. The mainstream housing measures mostly targeted middle-class households and failed to reach the most deprived families. Most regional Operational Programs (financed partly by the EU) dedicated to the social rehabilitation of segregated neighbourhoods or areas in bad condition failed to reach Roma communities and did not contain actual de-segregation measures.

III. Education of Roma children under Article 17 European Social Charter

A. Scope of Article 17 European Social Charter

Article 17 of the Revised Charter guarantees that equal access to education must be ensured for all children.

The international human rights treaties lay down the legal obligations for the right to education and serve the same end: the promotion and development of the right of every person to education, without discrimination or exclusion⁷². A necessary corollary for the full enjoyment of the right to education, access to education entails the right of access to existing public educational institutions on a non-discriminatory basis.

Art. 13. para 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for free and compulsory primary education, similarly to the revised Charter. The content of the right to education encompassed in the ICESCR is explained by the UN Committee on Economic, Social and Cultural Rights in General Comment 13.⁷³ The committee concluded that ‘education in all its forms and at all levels’ shall demonstrate four features i.e. availability, accessibility, acceptability and adaptability. Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. They should not be discriminatory and must be ‘accessible to all, especially to the most vulnerable groups, in law and fact.’

Equal access to education is inherent to the right to education, education shall be provided without discrimination, and therefore segregation in education or other forms of discrimination in education is a violation of the right to education as envisaged by the European Social Charter.

B. Education of Roma children and its interpretation under Article 17 European Social Charter

Uniquely in the Central Eastern European region, Hungary has maintained a social indicator based desegregation policy in public education since 2003. A careful analysis of the use of funds allocated for the integration of socially deprived children shows a relatively high success rate in schools where Roma represent less than 40% of the student body, but also

⁷² UNESCO Convention against Discrimination in Education (1960) and Articles 13 and 14 (Right to Education) of the International Covenant on Economic, Social and Cultural Rights: A comparative analysis (2006), available at: <http://unesdoc.unesco.org/images/0014/001459/145922e.pdf>

⁷³ Committee on Economic, Social and Cultural Rights, General Comment 13, The right to education (Twenty--- first session, 1999), U.N. Doc. E/C.12/1999/10 (1999),

shows that schools with higher Roma ratios have not availed themselves of such extra funding.⁷⁴ Based on the most recent Roma Survey conducted by the Fundamental Rights Agency, 55% of the Roma respondents stopped education before the age of 16 in contrast to 32% of non-Roma respondents.⁷⁵ Compared to the 53% of the majority children, only 13% of the Roma students have completed at least upper secondary education (vocational or general).⁷⁶ The Survey's results delineate three country groups: Roma children attending schools or classes where all or many of their classmates are also Roma; Roma children attending ethnically mixed but balanced classes; and classes where there are some or no Roma classmates. The first group includes Hungary, where 45 %, respectively, of the children attend classes with all or many Roma pupils.⁷⁷

A new act on public education was adopted in 2011 (Act CXC of 2011 on National Public Education) which has worsened the situation of multiply disadvantaged and/or Roma students. First, the educational act does not prohibit discrimination *expressis verbis*, it only refers to the right to equal treatment as a principle that governs education. It reintroduced failing in first grade (which had been abolished earlier) which affects mainly disadvantaged and Roma children while repeating a school year is one of the main reasons for early selection. The new act reduced the compulsory school age from 18 to 16 years as of 1 January 2013. This can potentially result in leaving secondary education without qualification, which mostly affect Roma. Provisions on compulsory school age and the system of per capita financing of schools together served to put a break on school drop out and early school leaving. Since September 2013 schools are no longer receiving per capita funds, therefore they are not encouraged financially to keep children in education as long as they can. On the other hand there was no impact evaluation presented by the government on the benefit of the change in compulsory school age. While there has been no comprehensive study completed on the effects of the reduction of the compulsory school age, experts on the field have already expressed their concerns.

A major reform has been introduced in public education in 2013. Public schools were nationalized on 1 January, 2013. The Klebelsberg School Maintainer Centre (KLIK) runs all primary and secondary schools handed over by municipalities. KLIK had the historic opportunity to inspect all schools and take steps against the segregation of Roma children. The KLIK, however, has left segregated schools intact and failed to map the situation of Roma children in the nationalized schools.

While the 2000/43/EC Racial Equality Directive (RED) only permits discrimination if it is justified by positive action measures, the Hungarian Act No. CXXV of 2003 on Equal Treatment (ETA) regulates the conditions of positive actions and provides for three different justifications in case of school segregation: minority education, religious education and gender based segregation.

Article 11 of the ETA transposes Article 5 of the RED in a restrictive manner, permitting exemption to the prohibition of discrimination in case a certain measure or action is a positive measure aimed at eliminating existing inequalities- contrary to Government's submission on

⁷⁴ Kézdi Gábor – Surányi Éva (2009): A Successful School Integration Program. An Evaluation of the Hungarian National Government's School Integration Program, 2005–2007. Roma Education, available at: http://www.romaeducationfund.hu/sites/default/files/publications/a_successful_school_integration_kezdi_suranyi.pdf

⁷⁵ European Union Agency for Fundamental Rights (FRA): Roma Survey – Data in focus. Education: the situation of Roma in 11 Member States. 2014. p. 34.

⁷⁶ Ibid. p. 38.

⁷⁷ Ibid. p. 44–45.

how segregation can be justified under domestic legislation. Article 28(2) of the ETA provides for the three different justifications for segregated education: *“The principle of equal treatment is not violated if,*

- a) in elementary and higher education, at the initiative and by the voluntary choice of the parents,*
- b) at college or university by the students’ voluntary participation,*
- c) education based on religious or other ideological conviction, or education for ethnic or other minorities is organized whose objective or program justifies the creation of segregated classes or groups; provided that this does not result in any disadvantage for those participating in such an education, and the education complies with the requirements approved, laid down and subsidized by the State.”*

Based on Article 11 taken in conjunction with Article 28(2) of the ETA above, school segregation can only be justified if six conjunctive conditions are met:

- a) it is initiated by the parents
- b) enrollment is voluntary (parental choice)
- c) it provides minority OR religious education
- d) the objective or the educational program justifies the establishment of segregated classes or groups
- e) the segregated education does not result in any disadvantage for those participating in it
- f) the segregated education is in line with the national requirements.

In the previous Hungarian Roma education cases brought to courts by CFCF respondents have unsuccessfully relied on minority education as a justification. The Supreme Court stated in the Hajdúhadház case (Pfc.IV.20.936/2008/4.) that parental consent to Roma minority education cannot be interpreted as consent to education in a segregated setting. The Supreme Court maintained this argument in the Kaposvár (Pfv.21.568/2010/5.) and in the Győr case (Pfv.IV.20.068/2012/2.)

Minority education therefore could not serve in the past to justify racial segregation in schools because the content of minority education has never justified the creation of separate schools or classes for the Roma students. In general, Roma minority education is provided in Hungarian language, while in the few cases where Roma language classes are provided (Romanes or Beás), this can be done in integrated schools.

The Commissioner for Fundamental Rights has published a report of his findings on minority education in 2014⁷⁸, in which it established that there is a link between Roma minority education and segregation of Roma children, moreover Roma minority secondary schools, compared to other minority schools, provide the worst competence results.

In the Nyíregyháza resegregation case - elaborated below - the Supreme Court has justified segregation of Roma children based on religious education. This interpretation throws into doubt whether the current legislation and wording of the ETA is in line with the RED, the 2000/78/EC Employment Equality Directive (EED) and other relevant provisions of EU law pertaining to nationality and sex discrimination.

⁷⁸Report of the Commissioner of Fundamental Rights and the deputy Commissioner for minority rights on the situation of secondary minority education, Report no. 3894/2012.

C. Failure to ensure inclusive education of Roma children in Hungary

In the field of education the lack of data on the ethnicity of students in primary education is a barrier to desegregation and planning. There is no official data on the overall number of Roma students in public education; however researchers estimate that at least 15% of students belong to the Roma minority.

Currently, integration policies are targeting children with multiply disadvantaged status. While it is estimated that 2/3 of Roma students qualify for multiply disadvantaged status, they are in fact under-registered and therefore invisible for officials. In order to be registered as multiply disadvantaged, the parent (legal representative) of the child has to make a voluntary declaration. Registration is therefore not automatic and no allowances or other pecuniary benefits are linked to registration. As a result, parents are not aware of the benefits of registration nor are they encouraged by officials to register themselves. There is a significant conflict of interest: segregated schools would not encourage their students to obtain the registered multiply disadvantaged status as it would reveal officially segregated education.

In 2013 a new definition for multiply disadvantaged status was adopted, while the new legislation left the procedure intact where children could be registered (Art. 67/§. of the Act XXXI of 1997). There is no development in the registration procedure of the multiply disadvantaged children, the new provisions left intact the procedural aspect which maintains invisibility of Roma.

There is data available on the proportion of Roma students in schools based on the school principals' estimation (third-party identification) on a voluntary basis. In 2014 the Educational Authority provided information on the request of the Chance for Children Foundation on schools in which the estimated proportion of Roma children exceeds 50%: there were 381 primary and secondary schools in the country. No desegregation policies were targeting these schools.

1. Case law in Roma education cases, 2011-2013

Between 2011 and 2013 the Hungarian Supreme Court (renamed as Curia) has adjudged 5 Roma education cases in which they held that Roma children were unlawfully segregated and in two cases settlements were reached in the front of the Equal Treatment Authority. However, Hungarian courts have not yet ordered the desegregation of the impugned schools therefore there is no effective remedy available against systematic and structural discrimination in education of Roma children. The lack of effective remedy and the lengthy procedure discourages victims of segregated education to seek remedy of the unlawful situation.

In the *Hajdúhadház segregation case*⁷⁹ (2010) the Supreme Court established that since disadvantage is part of the definition of indirect discrimination, it was therefore not necessary for the applicants to prove further disadvantage or that they suffered damage once it had been established that the respondent indirectly discriminated them.

⁷⁹ CFCF v Hajdúhadház Supreme Court judgment No. Pfv.IV.20.936/2008/4.

In the *Kaposvár segregation case*⁸⁰ (2010) the courts found that the content of ethnic minority education as provided in the segregated school did not justify segregation, even though uniquely in Hungary the school taught Romani children Beash, one of the languages Romani children in Kaposvár speak. It appeared relevant that the minority language was taught for one or two classes per week and that only half of the students in the given school spoke Beash at home, the others' mother tongue being Romanes or Hungarian.

In the *Jászladány segregation case*⁸¹ (2011) the Supreme Court established that the students of the public school have been segregated from students in the private school on the basis of their Roma origin and social status. The Court stated that the public and the private school were in a comparable situation because both schools were operating in a building owned by the municipality. Therefore the ownership of the municipality over the school building created the necessary ground for comparison between the schools.

In the *Győr segregation case*⁸² (2012) the Supreme Court upheld the findings of the first instance Court establishing that the municipality is responsible for segregation based on social class (socially impoverished status) as well. The reasoning of the judgment points out that the parents' level of education and the financial background of the child are both characteristics which determine the personality of an individual as well as her role and place in society. The Court held the school maintainer accountable for not acting against spontaneous segregation.

In the *Tiszavasvári case* (2011) the administrative bench of the Supreme Court upheld the administrative decision of the Equal Treatment Authority in which it ordered the municipality Tiszavasvári to appoint an expert to elaborate a desegregation plan to eliminate existing segregation of Roma children. While the order to desegregate is unprecedented in Hungarian case law, the decision has never been implemented or executed by the equality body.

2. Equal opportunity planning

Contrary to the Government's report, long term plans on public education fail to address segregation and desegregation. In May 2013 Governmental Agencies responsible for education prepared and published educational development plans for each county in which they assessed the current situation of public education and set forth development trends and desirable measures (Art. 21. of Government Decree 229/2012. (VIII. 28.)). Unfortunately the development plans do not tackle segregation of Roma and disabled children. (E.g. in case of Kaposvár, the Somogy County educational development plan does not even mention segregated education or any plans to terminate the unlawful practice despite of the final and binding decision of the Supreme Court in the Kaposvár segregation case, discussed above).

Contrary to the Government's report, the public education equal opportunity plans made by municipalities as former school maintainers were not effective means to tackle segregation either. While the plans often comprised data on the segregation of Roma children, no monitoring or evaluation by public authorities were in place to assess whether measures to desegregate were actually implemented. While the existence of such a plan was a precondition for the application of public education grants, no one has ever checked whether the plans were actually implemented in practice.

⁸⁰ CFCF v Kaposvár, Supreme Court judgment No. Pfv.IV.21.568/2010/5.

⁸¹ CFCF and Roma Civil Rights Movement in Jászság v Jászladány et al., Supreme Court judgement Pfv.IV.20.037/2011/7.

⁸² CFCF v Győr, Supreme Court judgment No. Pfv.IV.20.068/2012/3.

Equal opportunity planning is therefore futile as there is either no data included on school segregation of Roma children or there is no monitoring over the implementation of desegregating measures.

3. The Anti-Segregation Roundtable- lack of legitimacy and authority

The Anti-Segregation Roundtable was established by the Minister of Human Resources in June 2013 in order to seek solutions that may be used in practice to eliminate segregated education that regenerates disadvantages and poverty. NGO representatives working to ensure that poor and Roma children have equal access to quality education presented a list of recommendations on the second meeting of the roundtable asking the government among others to go back to the original definition of the multiply disadvantaged status (“HHH” definition) claiming that the new definition will deprive many disadvantaged students of previously available benefits and will make it harder to fight segregation of Romani and other socially disadvantaged students (without officially collected ethnic data integration policies use multiply disadvantaged status as a proxy).

Two representatives of the civil sector, Péter Heindl, head of an after-school study centre and Erzsébet Mohácsi, head of the Chance for Children Foundation left the roundtable in July and September 2013 respectively, claiming that the government disregarded their views and demands and there was no result of the meetings. While Heindl’s main criticism was the government’s unwillingness to change back the definition of the multiply disadvantaged status⁸³, Mohácsi claimed that there was no theoretical agreement between the NGO sector and the government as to what actually constituted segregation and she criticized the government for disregarding court rulings that condemn segregating schools and for not standing up against concrete instances of segregation, while, as a maintainer of all public schools, having the power to do so.⁸⁴

4. Social catch-up in a segregated setting

The government has changed the terminology and thus the discourse on segregation, shifting the focus from desegregation and integration to *social catch-up* (which in fact does not equal ‘closing the social gap’) and *inclusion in segregated settings*, which in itself is a contradiction. The Minister of Human Resources (also responsible for education) expressed his concerns about the law currently prohibiting segregation completely. He believes integration is a two-step effort: first the disadvantaged, mostly Roma children shall be put into segregated schools where “they will catch up”, and then once they achieve the knowledge and skills in these segregated schools equal to that of students in the “majority” schools, the Roma children can be integrated into the mainstream population. The Minister has no clear answers for when Roma children will actually reach the point in a segregated setting that enables them to enter majority society.

In the Nyíregyháza segregation case⁸⁵ the church – who reopened a segregated school, which was closed down in 2007 – argued that they provided social “catch-up”. During the trial of the

⁸³ http://hvg.hu/itthon/20130711_Balog_Heindl_roma_szegregacio (Hungarian)

⁸⁴ http://nol.hu/belfold/20130925-mohacsi_erzsebet_is_kivonult-1415235 (Hungarian)

⁸⁵ In the *Nyíregyháza resegregation case* CFCF v Nyíregyháza and the Greek Catholic Church (No. Pfv. 20. 241/2015/4.), which concerned a Roma-only church school the Supreme Court examined whether conditions provided by Art. 28. (2) of the ETA has been met, whether segregation could be justified and found that

Nyíregyháza segregation case, the Minister appeared in court as a witness to give evidence on behalf of the Greek Catholic Church. The Minister declared his support for “segregation with love”. The Minister stated that what the Church did was not “segregation” in the negative sense, but it provided social “catch-up” for its students. He therefore made a distinction between “good segregation” and “bad segregation”, although under the law only “bad”, thus unlawful segregation exists. The Minister did not accept the first-instance court’s ruling, nor did he agree with the second-instance (i.e. enforceable) ruling: on the day of the second-instance court decision, the Ministry issued a statement promising that it will find a way to exempt schools similar to the one in the trial from the ban on segregation.⁸⁶

The Supreme Court has disregarded the testimony of the experts who stressed that social catch-up or integration is impossible in a segregated setting and that non-interaction with non-Roma peers is necessarily harmful.

5. Misdiagnosis of Roma children

Testing procedures in use to assess the mental ability of children are contributing to segregation.⁸⁷ In 2012, the Roma Education Fund (REF) published its research on entry-testing in which it established that testing procedures applied to establish school maturity and learning disabilities prior to entering primary school are culturally biased and may contribute to the segregation of Roma children into special schools or classes in several countries, including Hungary. The study stressed that “throughout the region, Roma are disproportionately present in special education in the case study countries, accounting for a majority of pupils in practical schools in the Czech Republic; between 20 and 90 percent of children in special education in Hungary; [...]; and approximately 60 percent of children in special primary and secondary education in Slovakia”.⁸⁸

In 2013 the ECHR delivered a judgment in *Horváth and Kiss v. Hungary case*,⁸⁹ unanimously holding that there had been a violation of Article 2 of Protocol No. 1 (right to education) of the European Convention on Human Rights read in conjunction with Article 14 (prohibition of discrimination) of the Convention. The Court noted that Roma children had been overrepresented among the pupils at the remedial primary and vocational school attended by the applicants and that Roma children had overall been overrepresented in the past in remedial schools in Hungary due to the systematic misdiagnosis of mental disability. The Committee of Ministers has called Hungary to provide data on the impact of new diagnostic procedures on Roma students. No data has been provided yet.

segregation was lawful, as the church provided religious education. The Supreme Court took the position that the fact that the Greek Catholic Church conducted Roma pastoral care (pastoration) justified its decision to open a school in a Roma settlement and to maintain a Roma-only school, because it could not conduct Roma pastoral care in a school where the ethnic composition of the students was different. Therefore the objective (Roma pastoration) justified the establishment of a Roma-only school. This interpretation throws into doubt whether the current legislation and wording of the ETA is in line with the RED, the 2000/78/EC Employment Equality Directive (EED) and other relevant provisions of EU law pertaining to nationality and sex discrimination.

⁸⁶ <http://www.kormany.hu/hu/emberi-eroforrasok-miniszteriuma/szocialis-ugyekert-es-tarsadalmi-felzarkozasert-felelos-allamtitkarsag/hirek/sajtokozlemeney> (in Hungarian)

⁸⁷ FRA: Roma Survey – Data in focus. Education: the situation of Roma in 11 Member States. 2014. p. 44.

⁸⁸ Roma Education Fund (2012a), Pitfalls and bias: entry testing and the overrepresentation of Romani Children in Special Education, Roma Education Fund, Budapest, 2012. p. 95. www.romaeducationfund.hu/sites/default/files/publications/pitfalls-and-bias-screen_singlepages.pdf.

⁸⁹ *Horvath and Kiss v. Hungary*, application no. 11146/11, Second section (2013), available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116124>

The Government in its report refers to the WISC-IV diagnostic protocol, a test standardized in Hungary including Roma children as a diagnostic procedure in line with state of the art testing methods. In reality the WISC-IV, while being considered as culturally independent (not biased), is still not used extensively. CFCF has evidence submitted to an on-going litigation in the Court of Eger that culturally biased diagnostic protocols (e.g. the Budapest-Binet test) leading to the misdiagnosis of Roma children are still in use nationwide. There is no effective control or monitoring over expert panels in charge of assessing the mental ability of children.

D. Conclusions – Article 17 European Social Charter implementation

The segregation of Roma children in mainstream education is increasing, misdiagnosis of Roma children channeled into special education remains an unsolved problem.

The nationalization of public schools did not result in desegregation or promotion of equality of Roma and socially disadvantaged children, the central school maintainer body is now one of the biggest barriers to desegregation (e.g. in Kaposvár and Piliscsaba).

The current legislative framework on prohibition of school segregation gives rise to doubts whether it is in line with EU law: religious education can justify Roma-only schools in Hungary, while at the same time the number of church schools has increased dramatically. The concept of providing social “catch-up” in a segregated setting is not considered unlawful segregation by the Government (contrary to the existing legislation on the prohibition of segregation).

Equality planning is futile without monitoring their implementation.

The Anti-segregation roundtable has no power to foster desegregation of schools.

Hungarian courts refrain to provide effective remedy for school segregation: case law shows that in each case in which a final judgment established segregation of Roma students the impugned schools still operate unlawfully.

Culturally biased entry testing and diagnostic protocols are still in use, channeling thousands of Roma children wrongfully to special schools labeled as mentally ill.