

Submission of the Hungarian Women's Lobby to the UN Committee on the Rights of the Child in relation to the consideration of the third to fifth periodic reports of Hungary

June 2014

„(...) the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women have a complementary and mutually reinforcing nature, (...) they should be an essential framework for a forward-looking strategy to promote and protect the fundamental rights of girls and women and decisively eradicate inequality and discrimination”

/The Committee on the Rights of the Child, Report adopted by the Committee at its 209th meeting on 27 January 1995; CRC/C/38//

State reporting to the UN Committee on the Rights of the Child

During the elaboration of the third to fifth periodic reports of Hungary (hereinafter state report) to the UN Committee on the Rights of the Child,¹ NGOs dealing with women's human rights and the rights of the girl child - similarly to other NGOs - were not invited and involved by the government in the reporting process. This can be seen from the point 4 of the state report.

The state report does not contain gender-sensitive situation analyses, not even sex-disaggregated data and statistics, neither does it mention any measures, initiatives for the promotion of gender equality and the elimination of gender-based discrimination.

National policies

The National Strategy 2007-2032, “Making Things Better for Our Children”² does not include any gender disaggregated data and statistics, and lacks a gender-specific situation analysis for all of the fields addressed. Neither the principles nor the goals, objectives, measures and indicators consider the promotion of gender equality and the elimination of gender-based discrimination, thus no attention is paid to the specific situation of the girl child. Although the Strategy refers to equal opportunities in education and the prevention of prejudices, stereotypes and discrimination as priorities, it does not do so in the context and framework of gender equality. Similarly, the first - and so far last - action plan of the Strategy does not contain measures for the promotion of gender equality and elimination of gender-based discrimination.³ Furthermore, there is a general lack of data disaggregated by sex and ethnicity or disability, therefore intersectional discrimination is not considered in policy making.

¹ See: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fHUN%2f3-5&Lang=en

² Decision of the Parliament No. 47/2007. (V. 31.) on Making Things Better for Our Children 2007-2032

³ Government Decision No. 1092/2007. (XI. 29.) on the government tasks (2007-2010) concerning the implementation of the Decision of the Parliament No. 47/2007. (V. 31.) on Making Things Better for Our Children 2007-2032

Gender stereotypes, the role of the education system and the media

Experiences of women's rights NGOs and research results indicate the existence of traditional, restrictive gender roles in the attitudes of both adults and children. The Ipsos Media, Advertisement, Market, and Opinion Research Institute conducted a national representative survey in 2014 on gender roles and reconciliation between work and private life.⁴ The survey targeted 550 young people between 15 and 25 years of age. Based on the survey results, the researchers identified three categories of respondents: the biggest category, 44% of the respondents had rather conservative views, 32% were identified as egalitarian, while 25% belonged to the category of those who were uncertain. In the case of one of the research questions which contained the statement that men's role is to earn money and women's role is to care for the household and children, more than one third, 34.3% of the respondents - 52.9% of boys/men, while 35.2% of girls/women - fully or rather agreed. At the same time, the proportion of those who fully or rather disagreed with this statement was 17.6%, that is 14.2% of boys/men and 21% of girls/women. In the 15-19 years age group the proportion of those fully or rather agreeing with the above statement was 47.2%, while those fully and rather disagreeing constituted 14.4%. While the different tasks related to the upbringing of the child is seen by the majority of the respondents as a common responsibility, more than third of the respondents identified it as a woman's responsibility to stay at home to care for the sick child (45.9%) and to clean of child's room (34.9%).

Another piece of research also provides evidence on the existence and effects of gender stereotypes. The aim of a focus group study in 2011 with Hungarian female secondary school students was to study what possible barriers stand in the way of getting more female students to apply to technology academic programmes. As the research pointed out: "Barriers standing in their way of choosing technology studies included existing stereotypes, bad experiences with certain science subjects at secondary schools, not getting support from family members to pursue technological academic programmes, and for some low self-esteem."⁵ The researchers also conducted interviews with secondary school teachers, based on which they concluded that "stereotypical beliefs of teachers and their differential treatment of girls and boys is a problem that has to be dealt with."⁶

At the same time, gender equality and the elimination of prejudices and stereotypes have not been given (due) attention in the education policies so far. The new National Core Curriculum was adopted in 2012. Gender equality is not included at all among the tasks and values of public education nor among the areas of development and objectives of education; while, for example, moral education and education for family life are mentioned among the latter. The whole Core Curriculum contains only a one-word reference to gender equality among describing social and civic competences, thanks to the copy-pasting of the related EU recommendation's text.⁷

As it was admitted in Hungary's last Periodic Report to the UN CEDAW Committee, the issue of gender equality is not emphasized in teacher training, it is only present in the form of local programs and individual initiatives of some teachers, rather than at the policy level.⁸

⁴ See the main research results in Hungarian at <http://www.ipsos.hu/site/m-gsem-mindegyik-j-k-cip-je-illik-r-ugyanarra-a-kaptaf-ra/>

⁵ See: *Erzsébet Takács (Eötvös Loránd University) - Lilla Vicsek (Corvinus University of Budapest) - Valéria Szekeres (University of Óbuda): BARRIERS INHIBITING GIRLS TO APPLY TO TECHNOLOGY ACADEMIC PROGRAMMES - RESULTS FROM A HUNGARIAN FOCUS GROUP STUDY.* The research project was part of the gender sub-project of TÁMOP 4.2.2/B-10/1-2010-0020

⁶ *Ibid.*

⁷ See Government Resolution No.110/2012. (VI. 4.) on issuing, introducing and application of the National Core Curriculum

⁸ See the combined seventh and eighth periodic reports of Hungary to the UN Committee on the Elimination of Discrimination against Women, available at

The state introduced new and strict media laws in 2010. They, however, do not reflect on the elimination of prejudices and practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women, as laid down in Article 5 of the UN CEDAW Convention. In the public debate about the media-focused 'Draft Public Service Code', the Hungarian Women's Lobby recommended that the Code should "highlight the media's responsibility in promoting gender equality and encourage content that is free from gender stereotypes." However, the adopted Public Service Code does not refer to gender equality, it only mentions that public service broadcasters should respect human rights and rights relating to personality; furthermore, it emphasizes that public service media should respect and support the institution of marriage and the value of the family.

The relevant Concluding Observations of the UN CEDAW Committee to Hungary, 2013⁹

19. *The Committee calls on the State Party to:*

(a) *Implement a comprehensive programme with measurable targets, aimed at women and men, girls and boys, to overcome stereotypical attitudes about the roles and responsibilities of women and men in the family and in society, focusing particular attention on the elimination of prejudices against women of disadvantaged groups, particularly the Roma women and women with disabilities; and*

(b) *Adopt the necessary steps to adequately include non-discrimination and gender equality in educational policies, in the National Core Curriculum and related documents, as well as in basic and continuing education for teachers and health-care professionals and other service providers.(...)*

27. *The Committee recommends that the State party:*

(a) *Intensify its efforts aimed at diversifying academic and vocational choices for women and men and take further measures to encourage women and men to choose non-traditional fields of education and careers;*

(b) *Adopt a system to collect disaggregated relevant statistical data regarding the situation of Roma girls in the education system that allows the State party to measure the results of its programmes and resource allocation;*

(c) *Eliminate segregation of Roma girls in the educational system and provide them with equal access to quality education at all levels; and*

(d) *Ensure that educational programmes on family life skills adequately address the principle of non-discrimination and substantive equality of women and men as well as the prevailing stereotypes against women.*

Sexual and reproductive health and rights - education and awareness

The Center for Reproductive Rights and PATENT Association prepared a joint submission to the UN CEDAW Committee in 2013 on the right to comprehensive health care and information, as well as on gender stereotyping in reproductive health care.¹⁰ In the framework of the right to

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fHUN%2f7-8&Lang=en

See also: Alternative report submitted to the UN CEDAW Committee for consideration in relation to the examination of the combined seventh and eighth periodic reports of Hungary, January 2013 by the Hungarian Women's Lobby and the European Roma Rights Centre

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fHUN%2f13260&Lang=en

⁹ See the UN Committee on the Elimination of Discrimination against Women: *Concluding Observations on the combined seventh and eighth periodic reports of Hungary adopted by the Committee at its fifty fourth session (11 February - 1 March 2013)*, CEDAW/C/HUN/CO/7-8, available at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fHUN%2fCO%2f7-8&Lang=en

¹⁰ See the Letter of the Center for Reproductive Rights and PATENT Association to the UN CEDAW Committee on supplementary information on Hungary scheduled for review by CEDAW during its 54th Session, dated on 28 January

comprehensive health care and information the submission raised concerns on the following: the absence of a comprehensive sexual and reproductive health and rights policy; restrictions in the access to safe and legal abortion; unmet need for contraception - including the lack of contraceptive coverage, limited access to emergency contraception, and lack of official data on contraceptive need; absence of adequate mandatory sexuality education in schools; inadequacy of reproductive health services for survivors of sexual violence; and systematic government interference with women's sexual and reproductive health and rights. Regarding sexual education the submission points out that Hungary's failure to provide adequate sexuality education is the result of two main shortcomings: a flawed national curriculum and its lacking implementation. Despite the fact that contraception is covered under the curriculum, it focuses primarily on information about healthy pregnancies, while does not even mention knowledge of sexually transmitted diseases and unwanted pregnancies. Furthermore, the submission highlights that Hungarian teachers have shown little initiative in the past to realize requirements under old curricula to address sexuality in their classrooms. It refers to a study from 2006 about sexuality education in primary and secondary schools which showed that classes on health education took place only very sporadically.¹¹ Consequently, another study from 2010¹² - also referred to by the submission -, in which 5000 teenagers from primary and secondary schools were interviewed, showed that "teenagers' knowledge was insufficient in every area of sexuality and reproduction, although many of the interviewees had already had intercourse."

The relevant Concluding Observations of the UN CEDAW Committee to Hungary, 2013

33. *The Committee urges the State party to: (...)*

c) Ensure adequate and continuous age and gender-sensitive education on sexual and reproductive health and rights in primary and secondary schools by properly trained teachers.

Legal age of marriage

According to the national statistics, 3112 children of 15, 16 and 17 years got married between 2006 and 2012. The data show significant gender differences: the number of boys is 314, while the number of girls is 2801. Among the girls there was 1 person who got married at the age of 15 (being the only case in the 15-year category), while the majority, 1430 girls got married at the age of 16. There were two cases in the referred period when the girls had already a divorced status when getting married at the age of 17.¹³

The scope of the Act No. XXXI of 1997 on child protection and guardianship administration extends to minors, while according to the Civil Code persons married under 18 years of age are considered major.¹⁴ According to the law, minors between 16 and 18 years are allowed to marry with the permission of the guardianship authority.¹⁵ The UN CEDAW Committee repeatedly urged

2013. Available at

http://reproductiverights.org/sites/crr.civicactions.net/files/documents/crr_Hungary_Shadow_letter_CEDAW.pdf

¹¹ FÁBIÁN R & SIMICH R, *MEGLÉVŐ ÉS MŰKÖDŐ MODELLPROGRAMOK, VALAMINT AZ ISKOLAI SZEXEDUKÁCIÓS ESEMÉNYEK ÉRTÉKELÉSE, HIV/AIDS - PREVENCIÓ AZ IFJÚSÁG BIZTONSÁGOS SZEXUÁLIS ÉLETRE NEVELÉSE* (2006), available at www.oefi.hu/modszertan8.pdf

¹² SIMICH RITA, *ISKOLA – EGÉSZSÉGFEJLESZTÉS – SZEXEDUKÁCIÓ, VESZÉLYEZTETETT KORÚ DIÁKOK PREVENCIÓS IGÉNYEI ÉS SZÜKSÉGLETEI [Health Development: Sexual education, demands and needs of students of an endangered age]* (2010), available at http://www.oefi.hu/tanulmany_szex.pdf

¹³ Source of information: Demographic Yearbooks of the Central Statistical Office from 2006 to 2012, tables on marriage by age and marital status.

¹⁴ See Act No V. of 2013 on the Civil Code, 2:10. § (1)

¹⁵ See Government Regulation No. 149/1997. (IX. 10.) on guardianship authorities and on child protection and guardianship procedures, 34-36. §

the Hungarian governments in the last decades to raise the legal age of marriage.¹⁶ The state in its last report to the Committee argued that it should happen only in the interest of the child that s/he is given permission to marry.¹⁷ At the same time, under the framework of development of public administration the government adopted a resolution in 2011 which listed authorizing the marriage of minors among the procedures to be simplified.¹⁸ Thus the state had not only disregarded the CEDAW Committee's recommendations but went against them. The CEDAW Committee in its last Concluding Observations to Hungary in 2013 recommended that the state "Raise the legal age of marriage for women and men to 18 years and institute measures to prevent early marriages."¹⁹ However, no legal changes and other measures have been introduced to meet the Committee's recommendations.

Furthermore, although the Civil Code prescribes that the marriage of minors is invalid without the permission of the guardianship authority, it also says that the marriage which was concluded without the permission of the guardianship authority or under the age of 16 will become valid retroactively after six months from reaching the age of majority, if the respective spouse does not contest the marriage by this deadline or if by his/her request the court terminates such a procedure initiated by other eligible persons.²⁰

The relevant Concluding Observations of the UN CEDAW Committee to Hungary, 2013

39. *The Committee recommends that the State party:*

(...)(b) Raise the legal age of marriage for women and men to 18 years and institute measures to prevent early marriages.

Definition of the family

The cardinal law on the protection of families adopted in 2011²¹ defined the family as a "relationship between natural persons in an economic and emotional community that is based on a marriage between a woman and a man, or lineal descent, or family-based guardianship." However, the Constitutional Court declared in its decision in 2012 that this definition of the family is contrary to the Fundamental Law, arguing that its scope is too narrow.²² As a response, not the definition of the family was extended but rather the Fundamental Law was modified in 2013,²³ incorporating that "Family ties shall be based on marriage or the relationship between parents and children."

The narrow interpretation of the family may negatively affect children not living in a marriage-based family. An example of that was the provision of the Act No. LXXXIV of 1998 on supporting families, leading to that depending on the legal relationship between the parents certain types of families - those not based on marriage - were entitled to less family allowance, furthermore

¹⁶ See the Concluding Observations of the UN CEDAW Committee in 2002, 2007 in relation to Hungary

¹⁷ See the combined seventh and eighth periodic reports of Hungary to the UN Committee on the Elimination of Discrimination against Women, *op. cit.*

¹⁸ See Government Resolution No. 1304/2011. (IX. 2.) on the adoption of the Simplifying Program of the Magyary Program, Annex 1

According to the justification of the related draft proposal, "the number of marriages in Hungary is continuously declining, thus it is a fundamental social interest to slow down or reverse this trend. To this end, it is still justified to provide the legal background for the marriage of minors."

¹⁹ See the UN Committee on the Elimination of Discrimination against Women: *Concluding Observations on the combined seventh and eighth periodic reports of Hungary, op. cit.*

²⁰ See 4:9. § (1) and (4)

²¹ Act No. CCXI of 2011 on the protection of families

²² See Decision No. 43/2012. (XII. 20.) of the Constitutional Court. The text is available in Hungarian at <http://public.mkab.hu/dev/dontesek.nsf/0/065D43D1183D5A48C1257AE8004C12E8?OpenDocument>

²³ See the fourth modification of the Fundamental Law (25 March 2013), Article 1.

could not get other state support that depended on the number of children. The Constitutional Court examined the respective provisions and stated that the state obligation to protect marriage should not be implemented against the right of the child for protection and care; this would be contrary to the best interest of the child. It also stated that the legal relationship or the form of cohabitation of the parents should not provide the sole ground for differentiation as regards the amount of allowance to be provided for those children who are in fact in the same situation from the point of view of the legal regulation.²⁴

The relevant Concluding Observations of the UN CEDAW Committee to Hungary, 2013

39. *The Committee recommends that the State party:*

(a) *Amend its law in line with the Constitutional Court's view that the definition of family is too narrow and ensure that further amendments of the relevant laws will be in conformity with this as well as the Committee's General Recommendation No. 21 (1994) on equality in marriage and family relations; (...)*

Romani children in state care

According to a study by the European Roma Rights Centre²⁵ Romani children are overrepresented in State care compared to their overall share of the population in Hungary. A large number of Romani children are removed from their families due to material reasons and the number of children removed from their families for this reason is reported to rising due to the economic crisis, despite the fact that Hungarian law bans this. Child protection workers are most frequently alerted that they should monitor Romani families due to school absenteeism, which a significant reason for the removal of Romani children from their families, in addition to negative stereotypes about Roma among some child welfare workers. There are an insufficient number of skilled social workers available to support endangered families and a lack of available preventative programmes and services, particularly in rural areas and poorer city districts where more Roma tend to live. The cumulative effects of poverty and marginalisation are often insurmountable barriers to the return of Romani children to their families once in State care. Romani children are more likely than non-Romani children to be placed in children's homes compared to other forms of alternative care including foster care and adoption. In State care, Romani children are reported to experience discriminatory treatment on account of their ethnicity and also their status as an institutionalised child. They face negative treatment and remarks from their caregivers and their peers in the homes, as well as in accessing public services outside the homes such as schools. There is a lack of programs promoting a positive Roma identity among Romani children living in State care and a lack of Romani child protection professionals. Few Romani children are reintegrated with their families and many end up staying in institutional care until they reach adulthood.

Violence against and sexual exploitation of children

Domestic violence

Although Hungary signed the Council of Europe's Convention on preventing and combating violence against women and domestic violence (hereinafter the Istanbul Convention) on 14 March 2014, it has not ratified it yet.

²⁴ See Decision No 14/2014. (V. 13.) of the Constitutional Court, available in Hungarian at <http://public.mkab.hu/dev/dontesek.nsf/0/9C157DC3CB5A7265C1257ADA00524ADF?OpenDocument>

²⁵ European Roma Rights Centre, *Life Sentence: Romani Children in State Care in Hungary*, 20 June 2011, available at <http://www.errc.org/article/life-sentence-romani-children-in-state-care-in-hungary/3953>

A new provision on “relationship-related violence” was introduced into the Criminal Code in 2013 in order to criminalize domestic violence.²⁶ The crime is applicable to any form of intimate partnership if the couple has a child(ren), while it should not be applied to the cases of intimate partner violence where the (ex) partnership is not based on marriage and common-law marriage. It means that, for example, the dating relationship of teenagers is excluded from the scope of the offence. Beyond not covering certain relationships, the offence does not cover typical behaviours, and requires in some of the cases a private motion - a statement of the victim that s/he requests the punishment of the perpetrator - as a condition for the criminal procedure.²⁷

Although restraining orders are applicable to the cases of domestic violence, they are effective for only an extremely limited period of time: the police are authorized to issue a “temporary preventive restraining order” for 72 hours, while a “preventive restraining order” may be issued by the court with a validity of ten days to a maximum of sixty days.²⁸ The sixty days limit has currently been introduced, before that restraining could only be applied for a maximum of thirty days. There is no legal possibility for the prolongation of the order. Beyond the time constraint the exclusion of certain victims from the protection - e.g. (ex) intimate partners not living in marriage, common law marriage or registered partnership - is also a problematic feature of the law. Furthermore, experiences from the helplines and legal aid services of women’s rights NGOs show shortcomings and discrepancies in the application of laws.

According to the Istanbul Convention, Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence against women and domestic violence are taken into account. They also must ensure that “the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children”.²⁹ Such provisions are not reflected in the Hungarian legislation, by-laws and protocols of the different professionals. Experiences from the helpline and legal aid service of women’s rights NGOs show that in child protection, child abuse, custody and visitation cases the authorities and courts do not pay due attention to the existence of intimate partner violence. A frequent reported problem in this framework is the enforced visitation of child(ren) by the abusive parent. At the same time, the Criminal Code provides for the punishability of the obstruction of visitation rights³⁰ without any reference in the legislation to giving due consideration to the eventual history of domestic violence in this regard. It is also frequent that the authorities do not differentiate between the battering and the non-battering parent, and their approach is to move the child(ren) from the “endangering environment”.

The Istanbul Convention prescribes measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence against women and domestic violence.³¹ Compared to this, Hungarian legislation does not exclude domestic violence cases from mediation, this method is applicable - and is applied in practice - even in criminal procedures in relation to certain acts of domestic violence. Furthermore, the Civil Code prescribes that in matters related to exercising parental supervision and visitation rights the court or the guardianship authority may oblige the parties to attend mediation,³² and the respective provision does not provide any reference that when deciding about the applicability of mediation the bodies should take into consideration the eventual

²⁶ See Article 212/A, Act No. C of 2012 on the Criminal Code

²⁷ See ‘Good, but not enough yet’. Statement of women’s NGOs on the new criminal offence of domestic violence adopted on Monday, Press release, 5 June 2013., available in Hungarian at <http://noierdek.hu/?p=10579>

²⁸ See Act No. LXXVII of 2009 on restraining orders applicable in cases of violence between relatives

²⁹ See Article 31

³⁰ Article 210

³¹ See Article 48 (1)

³² Act No. V of 2013 on the Civil Code, Art. 4:172, 4:177

background/history of domestic violence in the given case, and should not apply mediation in the latter case.

Sexual violence and exploitation

Hungary signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2010 but has not ratified it yet.

The new Criminal Code that entered into force as of 1 July 2013 introduced some positive changes in the field of sexual violence.³³ The title of the section in the Criminal Code on sexual offences now refers to the “freedom of sexual life” but there is still a reference in the title to the previous, out-dated terminology: “sexual morals”.³⁴ For crimes of sexual violence in the previous legislation violence or imminent threat against the life or bodily integrity were necessary conducts for punishability, while in the new legislation even using force/coercion establishes criminal liability.³⁵ The definition of rape, however, is still not based on the lack of consent.³⁶

The new Criminal Code contains positive changes in the field of sexual exploitation as well, such as bringing the definition of trafficking closer to international norms, naming prostitution and prohibiting taking advantage of child prostitution. However, the law fails to make a connection between prostitution and trafficking in persons.

In 2012, the Deputy State Secretary for EU and International Relations of the Ministry of Interior introduced a new form for data collection on identified victims of trafficking in human beings, within the framework of the national anti-trafficking coordination mechanism. At the same time the National Strategy Against Trafficking in Human Beings for the years 2013-2016 does not include research initiatives (with the aim of mapping and understanding the phenomenon and the context of trafficking in Hungary), while the SWOT analysis of the Strategy identifies the lack of basic research data among the ‘weaknesses’. Although the National Strategy provides an estimation (supported by several references) that “80-85% of the female victims of trafficking for the purpose of sexual exploitation are Roma women”, data disaggregated by ethnicity is not collected.

According to the European Roma Rights Centre’s (ERRC) research,³⁷ human trafficking affects Romani women and girls disproportionately in Hungary. Although relevant official data still does not exist, interviews conducted by the ERRC with a range of law enforcement officials, service providers and NGOs in 2010 indicated that Roma represent at least 40% of victims of trafficking in Hungary, although Roma constitute only approximately 7% of the total population. The ERRC study indicated the high vulnerability of Romani women and girls to internal and external trafficking for the purpose of sexual exploitation. ERRC research also indicated that girls

³³ See also the Alternative report submitted to the CEDAW Committee, *op. cit.*

³⁴ The new Criminal Code renamed some criminal offences, as „corruption [of a minor]” to „sexual abuse” and „promotion of commercial lechery” to „promotion of prostitution”. However, the term „blood infection”, for incest, has not been changed.

³⁵ Sexual coercion is an offence forcing a person to perform or endure a sexual act. When sexual coercion is committed with violence or imminent threat against life or bodily integrity, this will be an offence of sexual violence.

³⁶ See the Alternative report submitted to the UN CEDAW Committee, *op. cit.*; see also the UN CEDAW Committee’s Concluding observations, *op. cit.*

³⁷ ERRC, *Breaking the Silence: Trafficking in Romani Communities* (2011), available at <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>. See also the Alternative report submitted to the CEDAW Committee, *op. cit.*

brought up in State care are more vulnerable to becoming victims of trafficking; given the overrepresentation of Romani children in State care, Romani girls are highly vulnerable to this phenomenon.

The Act on Misdemeanours has allowed for the punishment of persons in prostitution in general since 1999, and since 2010, it also allows for the detention - as a form of punishment - of persons in prostitution who are minors.³⁸ The law has been used in several cases to detain minors. In his report on child prostitution, the Commissioner for Fundamental Rights highlights that the most serious obstacles to effectively tackling child prostitution are the lack of cooperation between authorities and institutions, the lack of knowledge, professional guidelines and protocols, and the fact that the police treat children in prostitution as offenders and not as victims.³⁹ Furthermore, there is anecdotal evidence that pimps/traffickers withdraw minors from the framework of the child protection system through marriage.

Despite some positive measures and initiatives, in all fields of violence against/exploitation of children we may report the lack of protocols and adequate systematic and obligatory training programs for the different professionals, shortcomings in the protection of rights and interests of child victims/witnesses in criminal proceedings,⁴⁰ serious shortcomings in the availability, accessibility and complexity of the services for the protection, assistance and rehabilitation of victims, as well as gaps and challenges in the multi-agency cooperation and in the operation of the child protection signalling system respectively.⁴¹

The relevant Concluding Observations of the UN CEDAW Committee to Hungary, 2013

21. *In accordance with its General Recommendation No. 19 (1992) on violence against women and the recommendations contained in its previous Concluding Observations, the Committee urges the State party to:*

- (a) *Adopt a law on domestic violence and criminalize different types of violence against women, including economic and psychological violence and stalking;*
- (b) *Amend its legislation concerning restraining orders with a view to providing adequate protection to victims in all types of cohabitation and extend the duration of restraining orders;*
- (c) *Provide mandatory training to the legal profession on the strict application of legal provisions dealing with violence against women and train police officers on standardized procedures to deal with women victims of violence;*
- (d) *Provide adequate assistance and protection to women victims of violence and their children, by increasing the number and capacity of State supported shelters, specifically those dedicated to women victims of violence, and adequate geographical distribution, as well as by strengthening cooperation with and funding to NGOs providing shelter, assistance, support and rehabilitation to victims;*
- (e) *Encourage women to report acts of domestic and sexual violence, by de-stigmatizing victims and raising awareness about the criminal nature of such acts;*
- (f) *Collect statistical data on all forms of violence against women disaggregated by sex and age as well as on relationship between the victims and the perpetrators in cases of domestic and sexual violence against women;*

³⁸ See Act No. II of 2012 on misdemeanors, misdemeanor procedure and registration system. Article 172 and 184 relates to prostitution, while Article 27 to special rules on minors.

³⁹ See in Hungarian the report of the Commissioner for Fundamental Rights No. AJB-1472/2011, about tackling child prostitution, available in Hungarian at <http://www.obh.hu/allam/aktualis/hm/kozlemeny20111205.htm>

⁴⁰ See the Commissioner for Fundamental Right: Report No. AJB-3070/2012 on the national implementation of the international requirements on child-friendly justice and on the media appearances of children, available in Hungarian at www.ajbh.hu/documents/10180/143247/201203070.rtf/dca98b68-1194-4f33-bb24-9840c9837549

⁴¹ See: *The physical and mental health of children*. Children's Rights project. Children's Rights Booklets. ed: Dr. Ágnes Lux. Office of the Commissioner for Fundamental Rights, 2012. Available in Hungarian at http://www.ajbh.hu/documents/10180/124836/ajb_gyermekjogi_projekt_2012.pdf

(g) Amend its Criminal Code to ensure that rape is defined on the basis of the lack of voluntary consent of the victim;

(h) Ensure appropriate and easily accessible health care services for women victims of rape combined with immediate medical and forensic examination to collect the evidence needed for prosecution of perpetrators; and

(i) Ratify as soon as possible the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. (...)

23. The Committee recommends that the State party:

(a) Consider including in its new strategy against trafficking in human beings for the period 2013-2016 measures to address the root causes of trafficking in women and girls;

(b) Increase the number of State-run temporary shelters for women victims of trafficking and enhance the responsiveness of territorial centres to their needs;

(c) Provide adequate assistance and protection to all women victims of trafficking in human beings, including by ensuring legal aid for victims and their reintegration into the society;

(d) Ensure that children in prostitution are not treated as offenders but as victims; (...)

Proposed recommendations to the state party, supplementing/reinforcing the respective recommendations of the UN CEDAW Committee

- Introduce comprehensive, coordinated strategies and policies for the advancement of children's rights, provided with adequate budget, timetable, responsible actors for implementation and a monitoring system which sets specific priorities, goals and measures for the promotion of gender equality and for the elimination of gender-based discrimination.
- Apply gender-specific situation analysis in the drafting, and gender impact assessment in the evaluation of all policies regarding children.
- Systematically collect sex-disaggregated data and statistics in all policy fields concerning children, providing public access to and dissemination of those data and statistics.
- Incorporate education on gender equality and sexual and reproductive health education in the National Core Curriculum and other related educational policy documents as well as in pre- and in-service training programs for teachers and other pedagogical staff.
- Apply review of school textbooks currently in use from a gender perspective and introduce gender equality among the selection and validation criteria of textbooks.
- Introduce measures, guidelines and wide-scale programs to change the image of women and girls (as well as men and boys) in the media and in advertising in order to combat inequalities, prejudices and stereotypes; introduce training programs with such a purpose for media professionals and representatives of advertising self-regulatory bodies.
- Promote parental education while emphasizing the common responsibility of parents in the upbringing and development of their children.
- Bring the legal age of marriage to 18 years, in conformity with the UN CEDAW Convention and its General Recommendation 21, as well as with the CRC Convention.
- Modify the legislation in relation to domestic violence, ensuring that those living in intimate partnership other than marriage and common law marriage are entitled to the same protection when it comes to the application of criminal offence on domestic violence and preventive restraining orders.
- Introduce legal and other measures and protocols to ensure compliance with Article 31 and 48 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, respectively on custody, visitation rights and safety and the prohibition of mandatory alternative dispute resolution.
- Introduce adequate systematic and obligatory training programs for the different professionals on violence against children; adopt and apply protocols on effectively handling the cases; guarantee the protection of rights and interests of children victims/witnesses in criminal proceedings; as well as ensure the availability, accessibility and complexity of the services for the protection, assistance and rehabilitation of victims.
- Ratify without delay the Council of Europe Convention on preventing and combating violence against women and domestic violence.
- Ratify without delay the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.