

European network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

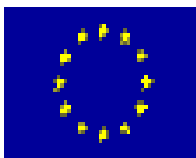
RACISM IN HUNGARY

Dr. William Ejala, International Law Research and Human Rights
Monitoring Centre

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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

Published by the European Network against Racism (ENAR) in Brussels, October 2007, supported by a grant from Compagnia di San Paolo and from Foundation Open Society Institute (Zug).



OPEN SOCIETY INSTITUTE

COMPAGNIA
di San Paolo

Table of contents

Table of contents	2
1 Executive summary.....	5
2. Introduction	6
3. Communities vulnerable to racism.....	8
4. Manifestations of racism and religious discrimination	11
4.1 Employment	11
4.1.1 Statistics on discrimination	13
4.1.2 Complaints and Cases	13
4.2 Housing	14
4.2.1 Statistics on discrimination	16
4.2.2 Cases and Complaints	16
4.3 Education	16
4.3.1 Statistics on discrimination	18
4.3.2 Cases and Complaints	18
4.4 Health	19
4.4.1 Statistics on discrimination	19
4.4.2 Cases and Complaints	20
4.5 Policing and racial profiling.....	22
4.5.1 Statistics on discrimination	23
4.5.2 Cases and Complaints	23
4.6 Racist violence and crime	23
4.6.1 Statistics on discrimination	24
4.7 Access to goods and services in the public and private sector.....	24
4.7.1 Statistics on discrimination	25
4.7.2 Cases and Complaints	25
4.8 Media, including the internet.....	26
4.8.1 Statistics on discrimination	26
5. Political and legal context	28
5.1 Anti discrimination	28
5.2 Migration and integration.....	29
5.3 Criminal justice	30
5.3.1 Racism as a crime.....	30
5.3.2 Counter terrorism	30
5.3.3 Racial profiling.....	31
5.4 Social inclusion.....	31
6. National recommendations	33
6.1 General	33
6.2 Anti discrimination	33
6.3 Migration and integration.....	33
6.4 Criminal justice.....	34
6.4.1 Racism as a crime.....	34
6.4.2 Racial profiling.....	34
6.5 Social inclusion.....	34

7. Conclusion	36
8. Bibliography	37
9. Annex 1: List of abbreviations and terminology.....	39

1 Executive summary

In the past years since the political changes seventeen years ago, the most dominating issue of racism is that experienced by Roma, who face significant problems in getting access to employment, health services, housing, education and public services.

The past years have seen an increase in the number of foreigners who also frequently fall victim to racism because of their origin, nationality, colour and/or religion. This has necessitated a change in the approach to the promotion of human rights and their inclusion as potential victims.

In 2006, there were three important findings:

- Although there were many inclusion policies and plans in place, actions to achieve the aims and goals of these initiatives were non-existent and/or ineffective.
- Furthermore, the plight of migrants, especially refugees and asylum seekers, was rarely addressed and/or recognised.
- Local government and private bodies must be involved in the integration and social inclusion process.

Both Roma and migrants face great difficulties in accessing education, housing and social services.

The report finds it vital that grass root organisations be actively and sincerely involved in the fight against discrimination. There is an urgent need for professionalism within the NGO sector, in order to effectively promote and improve the rights of the vulnerable, disadvantaged and disfranchised.

The report finds that there is a need for public awareness campaigns and initiatives that promote an understanding of the different people and cultures, hence a welcoming society.

Lastly, besides formal education, informal education has an important role to play in promoting integration and social inclusion.

2. Introduction

The political situation in 2006 was dominated by demonstrations and riots, following the leaking of a speech in which the Prime Minister seemed to be admitting that the people had been given a false picture of the economic situation prior to the elections in April. This unrest was also a result of the government reform of economic policies and attempts to restructure the economy.

The riots in September and October underpinned the importance of respecting fundamental rights. Demonstrations organised against the government brought into question the role of the police forces in keeping law and order whilst respecting human rights and on the other hand the demonstrators' right to peacefully assemble, freely express themselves and at the same time, respect the rule of law.

Issues such as the rights of the demonstrators and the rights of the police were raised frequently. Is the use of violence against the police a justified act that is included in the freedom of expression and assembly? When and where should the line be drawn, especially when certain people misuse their right to assemble and freely express themselves? The Hungarian Constitution specifically states that everyone can "freely express his/her views"¹ and may "assemble peacefully"²; however, these rights are not unlimited.

There were two contradictory issues, both infringing on human rights. One was the use of excess force by the police to disperse demonstrators and the other was the misuse of the right to assemble and freedom of expression by some of the demonstrators who resorted to violence.

Should the respect of human rights be viewed as the relationship between the state and an individual or does it also include the relationship between the different peoples of a given society?

The post- Communist era has seen an outbreak of intense anti-Roma and anti-migrant sentiment in Europe. In particular, 2006 saw an increase in intolerance and discrimination targeting ethnic and religious minorities, migrant communities including asylum seekers, refugees and students in all the former communist countries of Eastern Europe.

Hungary witnessed an increase in the open expression of far-right and extremists views. This was compounded by evidence of a lack of political will among politicians in addressing the increasing scourge.

¹ Article 61 (1): In the Republic of Hungary everyone has the right to freedom of expression, and further to receive and impart information of public interest.

² Article 62 (1): In the Republic of Hungary recognises the right to peaceful assembly and shall ensure the free exercise thereof.

Roma, migrants³ and other vulnerable groups⁴ witnessed continuous racism in 2006. Although there were a number of positive changes in the general human rights situation in Hungary, in certain areas there was a noticeable rise in intolerance and discrimination.

This report contains more information on the plight of migrants, especially asylum seekers and refugees, compared to earlier shadow reports. Whilst many reports on Hungary refer to the situation of the Roma, not much reference is made to the difficult situation of asylum seekers and refugees. Besides the Roma, this is another group that needs more attention and assistance.

There is a need for more initiatives to assist migrants with their active participation, to become socially included and to feel they are valuable members of Hungarian society. Failure to empower them will leave them marginalised and thus disadvantaged. Their active participation in society is valuable for Hungary as well, because migrants are not just takers but also contributors to the country's welfare.

³ In this report the term 'migrant' includes long-term and short-term migrant workers, students, asylum seekers and refugees, stateless persons, spousal and family dependants, women migrants and children and undocumented migrants.

⁴ Women, children, the disabled, older people, gays and lesbians, victims of trafficking.

3. Communities vulnerable to racism

While many changes have taken place in Hungary since joining the EU in May 2005, the dominating issue of racism is still the discrimination against minorities, especially the Roma, religious groups and migrants, not forgetting discrimination against other vulnerable groups like women, children and the disabled.

The Roma are subject to a high level of abuse and face significant problems in the areas of access to social and health services, education, employment and adequate housing.

Another group that faces discrimination are migrants. Within this group asylum seekers and refugees face constant, growing hardships. The biggest problem faced is with translation and interpretation during the asylum seeking procedure. There is inadequate translation and in some cases there is no interpretation in certain languages like Nepalese, Swahili, Tibetan language and Wolof. In such cases interpretation is in a second or third language that the asylum seeker may not comprehend perfectly. Furthermore, in most cases the translation is not official and is done by other asylum seekers.

The biggest hurdle that refugees face is being integrated. The Government's integration programmes are ineffective. Refugees face difficulties getting employment, having access to social benefits and in education. There are very few opportunities to attend vocational training, education and/or work. "If refugees do not have access to education and employment, the risk of them becoming further victimised by human smugglers and traffickers rises dramatically."⁵

In most cases when third-country citizens go to the authorities such as the immigration department, translation and interpretation is not provided and there have been cases when the foreigner has been sent away. Although the immigration department is supposed to provide an interpreter, what always happens is that the foreigner is told to provide the services himself/herself. Furthermore, foreigners of colour face problems in getting accommodation, employment and access to basic services.

Unfortunately, Hungary has failed to guarantee migrants those legal rights that would enable them participate actively in economic, social, cultural and civil life.

For those accused persons without the means to hire a legal representative of their choice, there is a continuous disadvantage because the Hungarian legal aid system is not well developed. In such cases an ex officio counsel is appointed.

⁵ Source: Szoboltics, Andrea: UNHCR Hungary.

“In practice, however, the Hungarian system of *ex officio* defence is often dysfunctional due to the shortcomings of the legislative framework, failure to provide adequate payments and negligence on the part of authorities and sometimes the attorneys themselves.”⁶

It is a common practice for the appointed counsel to delegate the case to a legal trainee without much experience. Furthermore, in many of the cases there is a communication gap between the client and legal representative due to the lack of a common language. It should be noted that although interpretation is mandatory, when the accused does not speak or understand Hungarian, translation is only provided during the procedural process. It is practically difficult for counsel to hire interpretation services at state expense,⁷ taking into consideration the low remuneration received. This puts the accused foreigner at an unfair disadvantage compared to a Hungarian speaking accused.

It is common that the authorities fail to contact foreign missions about the detention of their citizens. This is very common with African detainees. Furthermore, in most cases where a third country national is accused, the courts automatically send him/her on remand/pre-trial detention. The courts are strict when making a decision on whether a foreigner should get bail as compared to the situation when the accused is a Hungarian citizen.

Physically disabled people face great difficulties in accessing public buildings, public transport and other public facilities. Although there is a legal requirement to facilitate the easy movement and access to public facilities for the physically disabled, practically this has happened in very few places.

It has been noted by the European Monitoring Centre on Racism and Xenophobia in Vienna, that Roma children are particularly segregated from regular school systems.⁸

Violence against women is a global outrage.⁹ Domestic violence is a common phenomenon in Hungary but authorities have been very reluctant to interfere, even in cases of blatant brutality.¹⁰

Although Article 66(1) of the Hungarian Constitution prohibits discrimination between women and men, it is common place to witness such incidences, especially in the employment sector.

⁶ Access to Justice in East and Central Europe: Country Reports PILI 2003 p209

⁷ From 1 January 2003, appointed defence counsel may request reimbursement of all their expenses in the course of a criminal case, however this issue is settled by the court simultaneously with its final decision.

⁸ The Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU: EUMC 2006.

⁹ Amnesty Campaign Tool Kit: Making rights a reality, campaigning to stop violence against women, 2004

¹⁰ Holbrook, Esther; Ejalu, William: ENAR Shadow Report 2005: Racism in Hungary

Roma women and women of colour in particular, do face multiple-discrimination due to the fact that they are women and also belong to a minority or disadvantaged group, especially in the area of employment.

During the asylum process, it is has been found that there is no special attention paid to vulnerable groups, especially to women and unaccompanied children or minors.

Last but not least, international students, tourists and visitors face various modes of discrimination, ranging from paying higher bills to lack of access to certain services.

4. Manifestations of racism and religious discrimination

4.1 Employment

The Hungarian Constitution guarantees the right to work and the right to freely choose a profession.

Employment is the key to poverty eradication and further social inclusion. Restricted access to jobs means that a minority group will be disadvantaged compared to the majority. “EU Employment Strategy is the principle driver for achievement of employment goals set by EU. However, this strategy takes gender equality as a priority and not race and ethnicity.”¹¹

The massive and disproportionate exclusion of Roma from employment is an undisputed reality in many countries,¹² including Hungary. Proportionally, unemployment among the Roma is much higher than within other communities.

According to a study conducted in 2006 (CEMI-analysis, 2006), although the Roma make up about 7% of the population, the proportion of the Roma among those in employment is only about 2-2.5%, while their ratio within the registered unemployed is as high as 25-30%. In summary, the employment level of the Roma population is less than half, their unemployment rate is three to five times as high, and their dependency rate per employed person is three times as high as those of the non-Roma population.¹³

The Roma are one of the losers in the new post-Communist Hungary. Following the political changes and introduction of a liberal market economy, the jobs that the Roma used to occupy during the Communist era were phased out, and yet no trainings were partaken to help them get new skills that could be useful. This meant that a large section of the Roma population lost their livelihood and found it very difficult indeed to get re-employed.

Furthermore, discrimination against Roma could be attributed to at least two issues: one is due to the fact that the majority of the Roma working population is poorly educated and secondly because of the prejudice among the Hungarians that the Roma cannot be trusted as they might steal at their place of work.

Romani people continue to be refused work on the basis of their “appearance” as Roma. This is documented mostly in the service sector, as that is where most of the cases of discrimination have been reported. Additionally, Roma have been discriminated against indirectly for instance, since the jobs Romani people were

¹¹ European Commission: The Situation of Roma in an Enlarged European Union, 2004

¹² European Roma Rights Centre: The Glass Box: Exclusion of Roma from Employment, February 2007 p13.

¹³ Appendix 1.1 Situation analysis to Chapter 1 of the National Strategy Report on Social Protection and Social Inclusion p4.

traditionally employed in during Communism have been phased out and training/retraining programmes have not been initiated for these work groups. Roma continue to be employed in low-skilled positions, for example as construction crews, street cleaners, in sanitation etc.. Sometimes they are employed illegally in factories or legally through special “public works” programmes which pay the minimal amount possible.¹⁴

Discrimination in this area is not restricted to Roma alone, but to migrants, especially refugees and asylum seekers, who find it very hard to get employment. This could be attributed to two factors: the restrictive labour laws and prejudice. Asylum seekers are not allowed to get employment while their applications are being reviewed. Taking into consideration that the process may take months if not years, it would be economically beneficial for the State if asylum seekers were able to work as they await a decision on their application.

Although the migrant may have the right to reside in Hungary, in certain cases possession of a work ‘permit’¹⁵ is a criterion for getting employment. It is very ‘difficult’¹⁶ to get one, especially in the case of jobs that do not need high skills. Migrants, with the exception of permanent residents and recognised refugees, cannot use the services of the Labour Centres and services rendered. Hence they have no access to information on employment opportunities and professional assistance. In many cases the prospective employer explicitly states that he does not want to employ foreigners and/or refugees.

Furthermore, employment is denied because the applicant does not speak Hungarian or does not speak the language fluently, although the knowledge of the language might be irrelevant in a given type of job.

According to András Kováts, Director of the Hungarian Association for Migrants, "Only 30% of all refugees, hardly more than a few dozen persons a year, manage to find durable and legal employment in Hungary". He further stated that "Many of them live under the breadline, work illegally, or increase the number of homeless people in Hungary due to being permanently unemployed."¹⁷

There are cases when third country citizens are excluded from certain jobs and/or are not allowed to practise certain professions, due the citizenship condition, especially in the public service.

However, it is bizarre and common in Eastern Europe, Hungary included, that even those who have studied in the country and fulfilled the conditions for a acquiring a diploma in these countries do not have the opportunity to work in their

¹⁴ Holbrook, Esther; Ejalu, William: ENAR Shadow Report 2005: Racism in Hungary p11

¹⁵ According to the law among the third country nationals only permanent residents, recognised refugees, holders of a family visa and students (only in case of part time employment) do not need a work permit

¹⁶ One must be a legal resident, must possess an employment contract and the labour office must prove that no Hungarian and/or EU citizen is available to take up the job

¹⁷ <http://www.budapestsun.com/cikk.php?id=25760>

profession. Regardless of the fact that they are citizens or not, it does not make sense educating someone and then limiting one's ability to fully practice the profession. In Hungary, it is in the legal profession that this is experienced.

There are incidences when women are discriminated against and receive lower pay than men. In case 242/2006¹⁸ the Equal Treatment Authority found that a company had violated the principle of equal treatment by paying lower wages to a woman because of her gender.

The blind and deaf are discriminated against in education because very few educational institutions cater for their special needs.

4.1.1 Statistics on discrimination

No statistics are available for 2006.

4.1.2 Complaints and Cases

In case no 180/2006 the Equal Treatment Authority found that a company had violated the principle of equal treatment. The continuation of the practice of not employing Roma was banned and a fine of HUF 700 000 was levied.

In this particular case the client, represented by the Legal Office of Ethnic Minorities, lodged a complaint to the Authority that the complainant phoned an employer who advertised a vacancy and although he met the job requirements, he was refused because he told the employer he was Roma. He made the call from the local government offices and an officer heard the conversation.

The Legal Office of Ethnic Minorities asked two testers to call the employer and pretend that they had the same training and experience as the Roma man. One introduced himself as Kolompár, a common family name among the Roma, the other used his own name.

Following the hearing by the Authority, it became clear that the only reason for the refusal of employment was the client's ethnicity. The tester who used a Roma name was not given any information about the job, while the other one got a full job description.¹⁹

¹⁸ Source: www.egyenlobanasmod.hu: A female client turned to the Authority because her pay by the hour was less than that of the male employees who did the same job as hers. She was promised a raise but it was not given. After 3 months she enquired about the higher pay and she was told that being the only female employee who did that job, her wages could not be compared with another woman. Furthermore, she was informed that two men who did the same job as her had participated in an in-service training and that was why they were better paid.

¹⁹ www.egyenlobanasmod.hu

Example of Best Practice by NGOs

In the past number of years the National and Ethnic Minority Legal Office (NEKI) and the European Roma Rights Centre (ERRC) have taken up and successfully represented a lot of discrimination cases. It could be said they have the expertise and resources needed to successfully represent such cases. Most of their clients are Roma.

Nap Club Foundation in Budapest provides free training to women who have lost their jobs. The training comprises how to write a curriculum vitae, new skills to prepare for an interview and provides advice on how to look for jobs. All participants at these trainings also attend free English language classes.

The Hungarian Association for Refugees (MENEDEK) organised and co-ordinated a training programme in Budapest for 20 refugees to learn Hungarian and get vocational training in order to find jobs. According to their trainer, all of them passed the exams. The programme included developing skills in house painting and interior decoration.

In September, nine refugee men living in Hungary finished an intensive, 15 month training course in vocational skills and the Hungarian language.

In another, similar course, 11 refugees, including nine women, obtained certificates in computer skills and social work.

Before the training, all the participants had been unemployed and, during their studies, they received a monthly scholarship to help alleviate their financial hardship.

With their brand-new Hungarian training certificates in their pockets, 11 of the participants have already found jobs and the rest are now actively seeking employment.²⁰

4.2 Housing

Housing is a less developed area within EU policy. Housing for the disadvantaged groups is still and will remain a problem, taking into consideration the economic situation of a particular country. Furthermore, to get a deep understanding of the seriousness of the situation, there is a need for credible statistics including the number of homeless and Hungarians in need of housing.

Lack of reliable statistics does not mean that the problem is non-existent. However, the availability of statistics enables the effective planning and enacting of initiatives.

²⁰ www.menedek.hu

Whilst it is true and there is evidence that discrimination towards ethnic minorities is rampant, especially towards Roma and migrants, there is still no generally accepted understanding of adequate housing.

While a majority of Hungarian citizens enjoy adequate housing conditions, access to good housing has not improved for Roma. Roma face a grossly inadequate standard of living, hazardous living conditions, segregated settlements and forced evictions.

Roma are known to live in segregated settlements, at times referred to as “ghettos”, with inadequate infrastructure and services and to experience high incidences of disease.

According to Zita Csöke,²¹ the effect of these elements compounded together is that these communities end up being marginalised and separated from the rest of the society.

Before Hungary became a destination country, the issue of housing for migrants, was never on the agenda. This was attributed to the fact that most asylum seekers and refugees stayed at the reception centres and/or left for the West to look for better opportunities. However, this has changed since May 2005 when Hungary joined the EU. Most asylum seekers and refugees are staying in the country, hence the change in the pattern of migration brought the issue of housing to the fore.

According to existing law, if a migrant - with the exception of permanent residents and recognised refugees - becomes homeless, he/she may not use state facilities meant for the homeless. Unfortunately, asylum seekers whose applications have been rejected are vulnerable to homelessness, as they have to vacate the reception centres. Yet there are no initiatives to cater for them.

In many cases when migrants want to rent a house, they are told that Africans and Arabs cannot rent the premises. Where it is possible, the rent asked is unreasonably high compared to that asked from Hungarians. On leaving the house, migrants find it very difficult to get the ‘deposit’²² paid when they rented the premises.

Furthermore, in order for one to apply for a resident permit, one must have adequate housing. However, most landlords in Hungary do not want to sign the required documentation.

²¹ Social worker at Nap Klub Foundation in Budapest 8th District.

²² It is common practice in Hungary to pay a deposit of 2-3 months of the rent before moving in. The tenant is supposed to get this money back when leaving the premises.

People with physical disabilities lack adequate housing. Very few buildings have facilitates that enable easy access to the building by the physically disabled. As a result, their right to choose housing of their choice is limited.

4.2.1 Statistics on discrimination

No statistics are available for 2006.

4.2.2 Cases and Complaints

In May, 18 residents of Szent László street in the south-western Hungarian town of Nagyberény petitioned the town's mayor to prevent a Romani family from purchasing a home on their street.^{23 24} The mayor of the town rejected the petition stating that the Hungarian Constitution²⁵ guarantees freedom of movement and that there was no legal basis for preventing the family buying the house.²⁶

Examples of NGO Good Practice

The Szegényeket Támogató Alap Egri Foundation (SZETA) runs a project in Eger and areas surrounding Eger where, with the co-operation of the local Roma communities staying in the settlements, renovations are carried out on the houses and amenities lacking in such settlements like running water, electricity, gas, sewage systems and heating installations.

4.3 Education

Social inequalities in the field of access to education and qualification are quite high in Hungary. A part of these inequalities is due to the financial conditions and the educational level of the parents. However, in addition to the above factors, the Hungarian educational system – especially in comparison with other countries – is less capable of mitigating the inequalities of the family background, and, often enough, these differences are regularly increased by the educational system. Consequently, the socio-economic situation of the families becomes

²³ www.errc.org

²⁴ Mr. Mihály Nagy and his family of 8 (Roma family) had been living on the same street in a smaller house. It was when he signed a purchase agreement with the owner of the bigger house, that the neighbours petitioned the mayor saying Mr. Nagy's family is too big and they are too 'messy' and that the neighbours did not want to turn the area into a 'gypsy' settlement.

²⁵ Article 58 (1): Everyone legally staying in the territory of the Republic of Hungary - with the exception of the cases established by law - has the right to move freely and to choose his place of residence, including the right to leave his domicile or the country.

²⁶ Source: Roma Press Centre, 4 May 2006.

even more dominant due to the selection mechanisms of the schools and the resulting homogenous institutions. This phenomenon is manifested most in the case of the Roma children, because they are hit by the triple problem of disadvantageous family conditions, the extremely large proportion of those living in small settlements and the segregated nature of the educational system. The shortfall of young Roma persons in education is indicated by the fact that approximately 20% of them do not even finish the eight grades of the primary school, another 20% of them finish the eight grades late, and an additional 40-50% either does not continue the studies after finishing the primary school, or drop-out.²⁷

In the period covered by this report, there was not much change in the field of education and the problems encountered are well known. Despite the recognition of the need to improve access to education and vocational training for Roma and migrants, especially refugees, the policies to facilitate this are not yet effective. Local governments that are mandated under the Act LXXIX of 1993 on Public Education to establish educational institutions catering for ethnic minorities have neglected this duty in most cases.

The issue at hand is not only access to education, but access to good, quality education for all without discrimination based on race or ethnicity.

The failure of Roma pupils in the Hungarian education system is well documented by several research results and reports. However, although the fact is obvious, our knowledge about some aspects of the problem and its causes is still limited. Nevertheless, we can say that the huge gap between the educational attainment of Roma and majority children is the combination of two overlapping dimensions: the low quality of educational provisions for Roma children and the different forms of discrimination in education.²⁸

For many Romani children living in today's Europe, equal educational opportunity is a mirage. In some countries, more than half of the Romani child population is sent to schools for intellectually disabled children. In such schools, Romani children do not earn a diploma preparing them for life in a democratic society and competitive labour market. Quite the contrary; they are denied the right to education and emerge stigmatised as "stupid" and "retarded".²⁹ According to the 2006 Amnesty report on Hungary, the Commissioner for Integration of Disadvantaged and Roma Children at the Hungarian Ministry of Education confirmed that the segregation of Roma children remained a serious problem. At least 3000 elementary school classes and 178 schools were predominantly made up of Roma students and 25 per cent of Roma students were being taught in a segregated environment.

²⁷ Appendix 1.1 Situation analysis to Chapter 1 of the National Strategy Report on Social Protection and Social Inclusion, p8.

²⁸ www.policy.hu

²⁹ European Roma Rights Centre: Barriers to Education of Roma in Europe: A position paper; 5 May 2002.

According to the law, every foreign minor who has been in Hungary for at least three months has the opportunity to go school if the parent/s expresses willingness. In most cases the schools reject foreign children, the reason being due to the lack of places.

At the end of the year, a primary school in Debrecen rejected the applications of seven pupils who were staying at the Debrecen Reception Centre with their parents who were asylum seekers. The reason given was that there were no more places. However, the director of the school stated that soon her school would become empty, because the parents of the Hungarian pupils were not in favour of taking their children to a school where refugee children go.

In the period covered by this report, recognised refugees could only attend free basic Hungarian language lessons, however there were no official initiatives in place to teach them the language to a level after which they would be able to continue their studies in higher education institutions or to assist and/or give them advice on how to further their education on completing the language class.

Another aspect affecting vulnerable groups is the lack of information about the available educational opportunities. Without such information, these people cannot take advantage of the training and educational opportunities available.

4.3.1 Statistics on discrimination

No statistics are available for 2006.

4.3.2 Cases and Complaints

In June there was a legal victory when the Debrecen appeals court overruled a negative first instance judgment in case brought against the segregated education of Roma children in a school in the north-eastern Hungarian city of Miskolc. The court found that a decision that integrated seven schools without simultaneously redrawing the catchments areas of Miskolc upheld the segregation of Roma children, thus violating their right to equal treatment based on their origin. The court ordered local authorities in Miskolc to publicise the finding through the Hungarian Press Agency.³⁰

³⁰ Source: Chance for Children Foundation (CFCF).

Example of Best Practice by NGOs

Chance for Children Foundation (CFCF) aims to protect the rights of socially disadvantaged, mainly Roma, children and it concentrates on rights to and rights in education.³¹

One way to facilitate access to information on educational possibilities available is to provide and/or avail of access to the internet. One Roma grassroots organisation, the Romson Foundation in Tomor village secured a grant and has been able to supply and install computers and provide internet access to Roma families. This enables the community to get information on educational and others opportunities available.

4.4 Health

The health system is undergoing reform and most of the services are being privatised or partially privatised. Taking into consideration the health services were free during the Communist era, the people most affected with the new changes are the socially disadvantaged, the majority of whom are Roma, asylum seekers and refugees. The EU Race Directive prohibits racial and ethnic discrimination in the provision of healthcare.

Access to health services and care for migrants, especially the vulnerable groups comprising of asylum seekers, refugees and unregistered workers, has always been very problematic in Hungary. In most cases the health workers do not and will not treat a person if he is not a Hungarian citizen and does not hold an insurance policy. Hungarian law stipulates that in case of an emergency, all persons regardless of citizenship have access to treatment. It must be noted that the opposite happens and third country citizens are not treated.

An African child once collapsed and when the emergency services were called, they refused to treat him, because he was not a Hungarian citizen and had no insurance card or number.

4.4.1 Statistics on discrimination

No statistics are available for 2006.

³¹ Holbrook, Esther; Ejalu, William: ENAR Shadow Report 2005: Racism in Hungary, p19.

4.4.2 Cases and Complaints

In a decision communicated in August, the UN Committee on the Elimination of Discrimination against Women (CEDAW) condemned Hungary for violating the Convention on the Elimination of All Forms of Discrimination against Women in connection with the sterilisation of a Romani woman without her consent in January 2001.

On 2 January 2001, the Romani woman was sterilised by doctors at the Fehergyarmat hospital. While being operated on in connection with a miscarriage, she was asked to sign forms giving her consent to this and other operations, without a full explanation about the intervention, its nature, possible risks, or what the consequences of being sterilised would be. She was not told about other forms of birth control either. It was only after the operation that she learnt that she could not become pregnant again.

On 15 October 2001, Ms. S and her attorney filed a civil claim for damages against the hospital. They requested finding the hospital in violation of the plaintiff's civil rights and that it had acted negligently in its professional duty of care with regard to the sterilisation of Ms. S in the absence of her full and informed consent. The claim was rejected on 22 November 2002.

On appeal, the Szabolcs-Szatmar-Bereg County Court held that the hospital doctors had indeed acted negligently in failing to provide Ms. S with the relevant information about the sterilisation and stressed that:

"The information given to the plaintiff concerning her sterilisation was not detailed ... [and that she] ... was not informed of the exact method of the operation, of the risks of its performance, and of the possible alternative procedures and methods".

Nevertheless, the same Court concluded that sterilisations as such are fully reversible operations and that since Ms. S. had provided no proof that she had suffered a lasting detriment, she was not entitled to compensation.

Since Hungarian courts failed to provide adequate remedy for Ms. S. on 12 February 2004, the European Roma Rights Centre (ERRC) and the Legal Defence Bureau for National and Ethnic Minorities (NEKI) jointly filed a complaint against Hungary with CEDAW relating to the illegal sterilisation. The complaint asserted that Hungary, as a State Party to the Convention on the Elimination of All Forms of Discrimination against Women, is in violation of a number of provisions of the Convention, as a result of (1) failures to provide adequate information on contraceptive measures and family planning, (2) the lack of informed consent on the part of Ms. S. as a violation of her right to appropriate health care services, and (3) interference with Ms. S.'s ability to have children in the future.

In its decision communicated, the Committee stated that it was convinced by the ERRC/NEKI arguments that sterilisation is intended to be irreversible, that the success rate of surgery to reverse sterilisation is low and depends on many factors, and that reversal surgery is risky. With respect to the claim that Hungary violated the Convention by failing to provide information and advice on family planning the Committee stated that the applicant:

“Has a right to be protected by article 10(h) of the Convention to specific information on sterilization and alternative procedures for family planning in order to guard against such an intervention being carried out without her having made a fully informed choice.”

In connection with the sterilisation surgery without an informed consent the Committee reiterated that according under article 12 of the Convention, States parties shall “ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period”. According to its General Recommendation 24:

"Acceptable [health care] services are those that are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her needs and perspectives. States parties should not permit forms of coercion, such as non-consensual sterilisation."

The Committee also recalled its general recommendation 19 in which it states that “Compulsory sterilisation...adversely affects women’s physical and mental health, and infringes the right of women to decide on the number and spacing of their children.” The Committee found that the sterilisation surgery was performed on Ms. S. without her full and informed consent and must be considered to have permanently deprived her of her natural reproductive capacity, therefore her right to decide freely and responsibly on the number and spacing of her children was also violated.

In conclusion, the Committee holds that appropriate compensation should be paid to Ms. S. commensurate with the gravity of the violation of her rights. The Hungarian government should also ensure that the relevant provisions of the Convention and the pertinent paragraphs of the Committee’s general recommendations in relation to women’s reproductive health and rights are known and adhered to by all relevant personnel in public and private health centres, including hospitals and clinics.

The decision further states that the government should review domestic legislation on the principle of informed consent in cases of sterilisation and ensure its conformity with international human rights and medical standards. It should also repeal provisions allowing physicians “to deliver the sterilisation without the information procedure generally specified when it seems to be

appropriate in given circumstances”. Public and private health centres which perform sterilisation procedures, including hospitals and clinics, should be monitored so as to ensure that fully informed consent is being given by the patient before any sterilisation procedure is carried out, with appropriate sanctions in place in the event of a breach.

This is the second time that the Committee has found Hungary in breach of the Convention on the Elimination of All Forms of Discrimination against Women.

The decision is among important moves by domestic and international tribunals to provide redress to victims of coercive sterilisation in a number of countries of Central and Eastern Europe. These efforts have not yet been matched by governments; as yet, there have been few if any acknowledgements of the systemic nature of race-based infringements of the right to informed consent in sterilisation matters and the subsequent extreme human rights abuses inflicted on many Romani women.

The New York-based Center for Reproductive Rights provided additional legal analysis supporting the arguments of ERRC/NEKI.

4.5 Policing and racial profiling

“Racial profiling occurs when race is used by law enforcement, police or private security officials, to any degree, as a basis for criminal suspicion in non-suspect specific investigations. Discrimination based on race, ethnicity, religion, nationality or any other particular identity undermines the basic human rights and freedoms to which every person is entitled.”³²

Among the Hungarian population, Roma are blamed for the breakdown in public order. The majority of the population claims that the highest percentage of criminality is within the Roma community.

Law enforcement officials most often stop the Roma because they think that there is a higher probability of arresting someone wanted by the police, while blacks are stopped because it is assumed that they are illegally residing in the country. Romanian looking persons are always stopped, because it is assumed that they are working illegally.

At times racial profiling is intertwined with corruption. Information from the International Law Research and Human Rights Centre points to the fact that whenever a black driver is stopped by the traffic police, regardless of the fact that they are wrong or not, they are forced to pay a bribe following threats by the traffic police. This is because the police threaten them with further repercussions,

³²Amnesty International USA, What is Racial Profiling?, http://www.amnestyusa.org/racial_profiling/index.do, accessed 21 December 2005.

since the authorities will believe whatever the traffic police allege against these persons.

Evidence further shows that at the immigration department and at the border crossing, people holding Nigerian passports are scrutinised more than other Africans because the law enforcement authorities assume that Nigerians use fake documents and are involved in drug trafficking.

4.5.1 Statistics on discrimination

No statistics are available for 2006

4.5.2 Cases and Complaints

In a decision communicated in May, an appellate court in Debrecen, Hungary, upheld a July 2005 decision by the Hajdu-Bihar County Court to acquit at retrial two Romani men previously found guilty of murder. Re-affirming that the conviction of Mr. Ferenc Burka Jr. and Mr. Ferenc Burka Sr. had been unlawful, the Debrecen Appellate Court issued a binding and final decision on 24 April, confirming their release from jail. The two men had been sentenced to serve 15 and 13 years imprisonment respectively in 1999, following convictions on very weak evidence. They had spent close to six years in custody.^{33 34}

Both men were awarded compensation totalling to 35 million HUF.

4.6 Racist violence and crime

There is not much information on racist attacks for the period covered, firstly because very few victims report the incidences to the police and secondly, the police are unwilling to admit the racial or anti-Semitic motivation of attacks. In most cases, the attacks are considered as robberies and/or attempted robberies.

³³ www.errc.org

³⁴ On 4 March 1999, a man was robbed and murdered in the village of Ujszentmargita in north-eastern Hungary. The following day Mr. Ferenc Burka Sr. (48), both Romani were arrested and an investigation was initiated against them. Two witness testimonies were considered sufficient evidence for an indictment. The investigation produced solely circumstantial evidence. An officer of the local police department even stated during one of the court hearings, "I immediately thought of Ferenc Burka. It was intuition. I thought he was probably the perpetrator" On 2 April 2002, having been found guilty, the two men were sentenced to 15 and 13 years imprisonment respectively. On appeal the decision was reversed and a retrial ordered. In March 2005, in the repeated procedure, the two men were released from custody and placed under house arrest. They had, by that time, already spent exactly 2100 days in penitentiary. In the meantime, other witnesses came forward who testified to their innocence. Witnesses also identified another man, Mr. L.T., who reportedly stated that he was the actual perpetrator and that he had carried out the deed because he thought the victim had stolen some construction tools from him.

On 9 July 2005, the Hajdu-Bihar County Court acquitted the two men. The prosecutor, however, appealed the decision and the case was subsequently referred to the Debrecen Appellate Court. On 24 April 2006, the Debrecen Court upheld the County Courts ruling.

According to the Mahatma Gandhi Human Rights Organisation, the wave of racist attacks seems to be on the increase compared to two years ago. The organisation's records show that last year there were three attacks against Africans and three attacks against Mongolians. These attacks were reported to the police and are being investigated.

An internal memo of the International Law Research and Human Rights Monitoring Centre shows that incidences of verbal abuse towards people of colour increased during the period covered by this shadow report. Cases where people have been spat at were frequently recorded during the periods when demonstrations and riots against the government took place.

Hungary witnessed an increase in the desecration of Jewish cemeteries in the period covered by this report. However, the perpetrators have not been apprehended yet.

Furthermore, phrases like 'the Jews are controlling the country', 'this is a Jewish political party' are very commonly used to incite the masses against the Jewish community.

Public statements by politicians fostered racism and intolerance. Prime Minister Ferenc Gyurcsány apologised after referring to the Saudi Arabian football team as "full of terrorists" in February. The President of the Christian Democratic People's Party and Vice-Chairman of Hungarian Parliament's Human Rights Commission, Zsolt Semjén, also came in for criticism in the same month for a homophobic jibe at a rival political party.

4.6.1 Statistics on discrimination

No statistics are available for 2006.

4.7 Access to goods and services in the public and private sector

It is still common for people to be denied access to certain services, because of their ethnicity, nationality and/or colour. Unfortunately this still happens in Hungary.

Although denial of access to goods and services is a serious problem, it is a complex area and it is very difficult to access information as to whether one has been denied access to public services because of his/her race and/or origin. Most of the information is from the complainant and it is difficult to prove that the denial of certain services is because of one's ethnic background.

The biggest hindrance disadvantaged groups like the Roma face is lack of information on how to access public services. Furthermore, since many live in isolated neighbourhoods, many a time they are left without electricity, gas and/or water when the majority of the inhabitants cannot pay their bills.

Frequently Roma and people of colour are denied access to restaurants and discos. In Budapest, two discos are well known for denying entry to Roma and blacks are the Old Man's Pub and Rio Club. The excuse given is that a private function is taking place at the premises.³⁵

4.7.1 Statistics on discrimination

No statistics are available for 2006

4.7.2 Cases and Complaints

In a small town the guards did not allow into the disco, the claimants who belong to the Roma minority. One of the claimants' friends who was not a Roma once accompanied them to the disco because he wanted to spend a great time with his friends.

The bouncers let him in, but refused to let in the Roma. Asking why they could not step in the dancing room, the answer was that they needed a special identity card. Asked where they could buy this card, the answer was, 'at the local government'.

The Authority investigated this case thoroughly, heard several witness and it turned out that this kind of special identity card did not exist at all. The guards refused to let them in just because they belonged to the Roma minority.

The Authority has established that the claimants were discriminated against on the basis of their ethnic origin. Therefore the owner of the disco was fined of 450.000 HUF.³⁶

A county court in the countryside found that a local disco had discriminated against Roma when they were not allowed to enter.³⁷

³⁵ This is based on a test carried out for ILRHMC following many complaints from people of colour.

³⁶ www.egyenlobanasmod.hu

³⁷ The Szabolcs-Szatmár-Bereg county court held in June that by denying two Roma men entrance into a disco bar in Nagyhalasz, the owners had violated their dignity and infringed legal requirements of equal treatment. The court awarded each of the complainants 150,000 HUF and the disco bar was ordered to abstain from further discrimination against Roma.

4.8 Media, including the internet

The media, especially the far right leaning media and journalists, is known to propagate and promote hatred against the Roma, Jews and migrant communities.

In October there was a sudden rise in anti-Roma media coverage, following the tragic death of a gentleman who had accidentally hit an eleven year old Roma girl with his car.³⁸ The Hungarian media invoked racist methodologies to label the local Romani community as perpetrators of the crime and to collectively tarnish the “Roma” with one broad brushstroke as pathologically deviant, violent and criminally predisposed.³⁹ Whilst the death of a human being is tragic and a terrible crime and the perpetrators must be brought to justice, it is wrong to intentionally attribute to the whole Roma community the actions of a few people belonging to the community. Intentional incitement to racial hatred should be punished.

Furthermore, the media stereotypes the Africans and Arabs as criminals. In many cases when the media writes or talks about drug trafficking related offences and/or HIV and AIDS, the picture/s accompanying the story is/are always of a black person. This strengthens the conviction that black people are criminals and suffer from HIV and AIDS.

Although Hungarian law forbids the mentioning of the accused person’s ethnicity, if and when the concerned is a foreigner, it is common for the media to mention the person’s nationality and citizenship.

4.8.1 Statistics on discrimination

No statistics are available for 2006.

³⁸ In October Mr. Lajos Szögi was assaulted in the village of Olaszliszka after accidentally hitting an eleven year old Romani girl with his car. Following his death some of the TV Channels and newspapers like TV2, Magyar Nemzet put the blame on the local Roma community. Some of the news outlets and one journalist, Zsolt Bayer, in particular advocated for violence against the ‘Roma’ and advised drivers never to stop if they knock a Roma child.

³⁹ Olomoofe Larry, You have the Right but not the Opportunity, www.errc.org

Examples of Best Practice by NGOs

Every year for the past 10 years or so, the Independent Journalism Centre in Budapest holds special journalism training courses for Roma students. On successful completion of the training, the participants have always managed (with the help of the Centre) to get jobs at either television stations and/or newspapers.

5. Political and legal context

5.1 Anti discrimination

In Hungary, the principle of equal treatment and non-discrimination is enshrined in Article 70/A of the Constitution. Until 2004, when the Equal Treatment Act (ETA) came into force, equal treatment provisions were scattered over a number of laws, mainly in legislation relating to employment and education.⁴⁰

A victim of discrimination can choose the forum before which he wants to submit a claim. The Hungarian specialised body, the Equal Treatment Authority (Egyenlő Bánásmód Hatóság), can handle complaints with regards to the ETA, but the victim can also initiate court proceedings before a civil court, or in employment situations, go to a labour Court. In consumer cases, the Consumers' Protection Authority is competent as well.⁴¹

Hungary's "Equal Treatment Authority" is noteworthy for its far reaching powers in support of victims of discrimination. It may intervene in the judicial review of administrative decisions. It may also act as a representative of a victim of discrimination before the courts. It may also take legal action in the public interest to protect the rights of persons and groups.⁴²

The number of complaints filed with the Equal Treatment Authority doubled in 2006 compared to 2005. Of these complaints, the number of discrimination complaints rose from 491 in 2005 to 592 in 2006. Whilst the number of decisions of merit in 2005 was 144, 2006 saw an increase to 212.

In 2005, there were nine decisions condemning the violation of equal treatment; this number tripled to 27 in 2006. Those ending with a common settlement rose from six to 13, 12 of the injured parties were Roma. The amount of fines levied was more than in the previous year.

According to the received complaints and decisions, it is found that most people being discriminated are those above the age of 50, the disabled and Roma. Most complaints came from Budapest, Pest County, Borsod-Abaúj-Zemplén County, Szabolcs-Szatmár-Bereg County, Békés County and Hajdú-Bihar County.

⁴⁰ Houtzager, Dick: Changing Perspectives: Shifting the Burden of Proof, ENAR June 2006, p16.

⁴¹ Houtzager, Dick: Changing Perspectives: Shifting the Burden of Proof, ENAR June 2006, p17.

⁴² The Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU, EUMC, 2006.

Last but not least, the majority of the complaints were against local governments, state and police institutions and employers.⁴³⁴⁴

What is found lacking in this area is the effective implementation of policy plans and initiatives. Campaigns should be carried on in schools and other educational institutions. However, this necessitates the active and willing participation of the affected people.

The Government engages civil organisations, but this is not broad enough. There is a selective engagement process which favours certain civil organisations. In order to get positive results, engagement should be inclusive and the media should be involved as well.

The International Law Research and Human Rights Centre has initiated a children's book project, whereby children stories from other parts of the world are translated into Hungarian and sent to Hungarian primary schools for the children to read the stories and draw pictures. The best pictures are included in the book and CD-Rom. The Centre aims at bridging the gap between different cultures this way, thus developing a growing respect and understanding of the different cultures of the world.

It is vital for civil organisations within the vulnerable groups to actively get involved in initiatives aimed at eliminating discrimination. However, these civil organisations should also address issues within these communities that may be contributing to an increase in discrimination tendencies towards the community.

5.2 Migration and integration

Hungary seems to have a problem with accepting the fact that some migrants like asylum seekers and refugees are here to stay. These groups are rarely mentioned in any government policies and plans. For example, the National Strategy Report on Social Protection and Social Inclusion hardly mentions these vulnerable groups, thus they are not included in any of the planned social protection and inclusion plans and/or initiatives.

The integration plan is not comprehensive and targeted. The implementation has been slow and dysfunctional. There is an integration committee in place with no representation from the migrant community. How does the government expect to address the problems and needs of the migrants without consulting and involving them in the process as equal partners and not simply as subjects?

⁴³ Author's translation from Hungarian.

⁴⁴ www.egyenlobanasmod.hu

There are civic initiatives to make Hungarian society better understand other people and cultures and also to sensitise them on why people are at times forced to flee their homes and countries.

A recent positive development is that the immigration department of the Ministry of Justice and Law Enforcement offers material and financial support to victims of human trafficking and those persons whose asylum applications have been rejected but they cannot be sent back to their home countries.

Migrant communities also have a responsibility in facilitating integration. Integration must and should involve the migrant communities. The Chinese for example, prefer to remain isolated and keep to themselves. Such action may breed misunderstanding between the host and the migrant communities, hence hostility and discrimination may be the result.

5.3 Criminal justice

5.3.1 Racism as a crime

There were few reported cases of racist attacks. However, the situation has not changed much. The police are reluctant to consider crimes as racist and/or hate attacks.

According to an internal report by the International Law Research and Human Rights Monitoring Centre, incidences of verbal abuse towards people of colour increased in the period covered by this report.

Border guards are working together with civil organisations⁴⁵ to promote the respect of human rights while dealing with foreigners.

One must commend both the police and border guards as they have improved a great deal in the respect of human rights. While it is true that incidences of racism still exist with these forces, the situation cannot be compared to five or 10 years ago.

5.3.2 Counter terrorism

In the period covered by this report, there was no reported negative impact on any ethnic and religious community due to counter terrorism laws and measures. In comparison to other European countries, it cannot be stated that there is a trend to victimise residents of Arabic origin.

⁴⁵ Hungarian Helsinki Committee and Hungarian Association for Refugees.

The only change noticed is that it takes longer to attain a visa when someone applies from certain Islamic countries.

5.3.3 Racial profiling

Various reports do show that racial profiling is common within the law enforcement forces. The Hungarian police are tackling this by recruiting more officers from minority groups and also directly communicating with these groups to create a common understanding, while at the same time establishing initiatives that will decrease criminality in some areas.

5.4 Social inclusion

Social inclusion has two sides and both must be willing to consider and to be included with/within the other, but at the same time keeping the identities attributed to a particular group.⁴⁶

Inclusion requires more than just access to the labour market. Work is not enough – for immigrants to be included successfully into a society, they need to feel secure and to feel that their contribution over time is valued. The policies that can create these favourable conditions over the long term are in the areas of labour market inclusion, long term residence, family union, naturalisation and anti-discrimination.⁴⁷

There are civic initiatives in this area. At the completion of the Phare project entitled “Programme for a Cohesive Society” and the implementation under the patronage of Ms. Kinga Goncz, the Minister of Youth, Family and Social Affairs and Equal Opportunities at that time, the organisers of the campaign announced that during the past three years the proportion of those accepting Roma increased by 22 per cent. The three components of the project included research, education and communication. This means that besides well-known means of communication (articles in the press, giant posters, TV spots etc), the programme focused also on teachers’ training and the elaboration of teaching materials in order to generate change in the attitude of Hungarian society.⁴⁸

Since 2002, the structural framework for tackling Roma integration issues at governmental level has been strengthened. This means that the promotion of social inclusion and the fight against discrimination are dealt with separately from issues related to cultural autonomy or belonging to the field of “classical minority policy”. In 2002, a new Roma Political State Secretariat was set up in the Prime Minister’s Office to promote the social integration of Roma. Two ministerial commissioners and a great number of Roma desk officers have been appointed

⁴⁶ William Ejalu in a presentation on 22nd April 2007 at ENAR Congress in Berlin, Germany

⁴⁷ European Civic Citizenship and Inclusion Index 2004.

⁴⁸ Office for National and Ethnic Minorities Budapest, Hungary: Selection of news on national and ethnic minorities in Hungary, January-April 2006, p3.

to ministries to facilitate co-ordination within and between the ministries and to give appropriate weight to the Roma issue. A consultative body named Council for Roma Issues and headed by the Prime Minister was set up with the involvement of prominent Roma and non-Roma personalities. Issues related to the cultural autonomy of the Roma as well as the preservation of Roma identity and culture are dealt with in the Office for National and Ethnic Minorities.

In 2003, a new position for a Minister without portfolio was created in order to promote equality of opportunities. This Minister supervised the work of a Government Office for Equal Opportunities, one of the Directorates of which dealt specifically with Roma issues. With the coming into office of Hungary's new prime minister in autumn 2004, this Minister became the head of one of the top ministries responsible for youth, social, family and equal opportunities affairs. Thus, the former Government Office for Equal Opportunities was integrated into this ministry.⁴⁹

Furthermore, a programme to eliminate segregated Roma neighbourhoods started in 2005. It was originally intended to last for 12 months, but will probably run until mid- 2007. The aim is to produce genuine change in the nine settlements that were granted subventions. The programme will affect the life of more than 1000 families (some 5000 people) living in 850 buildings. The programme is not uniform on all settlements but will be implemented in conformity with the specific needs and opportunities of each of them. The Roma families participating in the programme had to sign a letter of intent in which they committed themselves to take an active part in the improvement of their living conditions through training courses and participation in construction works.⁵⁰

Act CIV of 2006 Equal Treatment and Promotion of Equal Opportunities' paragraph 14 (1) a amended paragraph 63 (4)⁵¹ of Act CXXV of 2003, by stating that the Equality Authority on request may investigate as to whether concerned State institutions and companies have an equal opportunity plan in place. If none is in place the Authority may ask the employer to pass one and/or may levy sanctions against the employer.

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

⁴⁹ Fact Sheet: National and Ethnic Minorities in Hungary 2004.

⁵⁰ Source: Office for National and Ethnic Minorities Budapest, Hungary, January-April 2006.

⁵¹ All State institutions and companies where the State has majority shares and that employ more than fifty persons must have an equal opportunity plan.

6. National recommendations

6.1 General

- Disadvantaged groups must be willing to let their children go to schools.
- Classes and lessons in different ethnic languages and about different cultures should be introduced in schools.
- Informal education to raise awareness about other people and cultures should be promoted and supported.
- Independent evaluation of the Government's National Action Plans should be put in place.
- National Action Plans need to recognise the needs of the groups, hence the groups must be consulted.
- Law schools need to emphasise development of problem solving skills to prepare the students to see legal issues in relation to individual and societal concerns.

6.2 Anti discrimination

- Politicians must take the leading role and publicly condemn any incidences of discrimination and racial hatred.
- NGOs should get training in advocacy and lobbying techniques.
- NGOs should get training on monitoring techniques.
- There should be specialised training on human rights, cultural awareness and antidiscrimination, especially in the legal profession and police enforcement.

6.3 Migration and integration

- There is a need to design an action programme aimed at full integration of migrants, especially asylum seekers and refugees.
- This is a two way process, therefore migrants should be consulted and involved.
- Hungary should lay down the necessary legal foundations to accept academic qualifications and professional certificates acquired by migrants in their countries of origin.
- There is a need to involve local authorities in the integration process of migrants.
- There is a need to initiate and create partnerships with private business and civil society in the integration process.
- There should be initiatives that promote decent and productive work for migrants.
- If the appointed counsel does not speak the language of the accused/client, interpretation should be provided through the legal aid scheme.

- The integration process should involve migrants as equal partners and not subjects.
- There should be initiatives aimed at developing an inclusive and welcoming society.
- Establish an inter-ministerial group, including representatives of migrant communities on the integration of migrants.
- Employment of migrants in public institutions.
- Migrant communities and organisations should co-operate and co-ordinate.

6.4 Criminal justice

- Promoting Pro Bono through the involvement of big law firms and capable and experienced lawyers.
- There should be ethical and responsibility guidelines for appointed counsel.
- If the appointed counsel does not speak the language of the accused/client, interpretation should be provided through the legal aid scheme.
- Migrant NGOs should be consulted when and if there is need for translation in languages that are not common.
- Law enforcement training should emphasise the rule of law, respect of human rights and conflict management.
- NGOs should liaise with one another to improve access to justice for the poor and marginalised communities.

6.4.1 Racism as a crime

- There should be a higher level of training in human rights and multiculturalism for law enforcement officials.
- Joint project and initiatives should be established with communities of the vulnerable people.
- More people should be employed from within vulnerable groups and migrants groups.
- Educational programmes on different cultures and lifestyles should be introduced in schools.

6.4.2 Racial profiling

- There should be specialised training on human rights, cultural awareness and anti-discrimination, especially in the legal profession and police enforcement.
- More people from the ethnic minorities should be employed in law enforcement.

6.5 Social inclusion

- NGOs should co-operate to increase access to justice for poor and marginalised communities.

- Social inclusion processes should involve the disadvantaged groups as equal partners and not as project subjects.
- Design an action programme aimed at the full inclusion of people with disabilities.
- Roma organisations must play an important role in advancing their welfare.
- Private institutions and companies should be involved.

7. Conclusion

Seventeen years after the collapse of communism in Hungary and two years after the country's accession to the EU, there is a noticeable and significant change in the demographic set-up of the country. There is broadening of cultural diversity due to the influx of persons from other parts of the world. Since the changes, the spectrum of persons affected by racism and discrimination has widened.

Various policies have been initiated to curb discrimination, but less action towards achieving these goals has been taken. The time for policies is over and it is time for action. The policy makers must realise that in today's Hungary, racism and discrimination does not only pertain to Roma, women, children and the disabled, but goes further to include migrants, and therefore all initiatives must recognise the needs of this group. Migrants of different origin are part of the society, even though under Hungarian law they do not qualify as an ethnic minority.

Furthermore, the Equal Treatment Authority, which is mandated to work towards the elimination of discrimination as well as to promote equal opportunities, has the ability to take the initial steps that show case that migrants are a minority regardless of the fact that Hungarian law does not recognise them as such. Moreover, redress against discrimination has recently become an accepted norm in general practice, however, it is limited in certain aspects because few people are aware of this opportunity offered by both the courts and the Equal Treatment Body, hence the need to initiate a public awareness programme geared at informing the people of this opportunity and how to use it.

Nonetheless, the vulnerable groups especially the Roma and migrants must also take the responsibility and make sure that initiatives promoting equal opportunities are taking place and taken seriously. They must be actively involved in the struggle against racism, for without their contribution, less success is expected.

Civil society has taken the lead in the promoting the rights of the vulnerable, however there is a need to attain training in lobbying and advocacy in order to effectively make a difference. Moreover, the struggle against racism and discrimination does not mean that NGOs cannot co-operate with the authorities. They should! The authorities need the expertise of NGOs as they work to make sure that the provision of public services is not based on ethnicity, origin, nationality and/or colour.

8. Bibliography

Access to Justice in East and Central Europe: Country Reports PILI 2003

Amnesty Campaign Tool Kit: Making rights a reality, campaigning to stop violence against women, 2004

Appendix 1.1 Situation analysis to Chapter 1 of the National Strategy Report on Social Protection and Social Inclusion

Constitution of the Republic of Hungary

EUMC, Annual Report on the Situation regarding Racism and Xenophobia in the Member States of the EU: EUMC 2006

European Civic Citizenship and Inclusion Index 2004

European Commission: The Situation of Roma in an Enlarged European Union, 2004

European Roma Rights Centre: Barriers to Education of Roma in Europe: A position paper; 5 May 2002

European Roma Rights Centre: The Glass Box: Exclusion of Roma from Employment, February 2007

Fact Sheet: National and Ethnic Minorities in Hungary 2004

Holbrook, Esther & Ejalu, William (2006) ENAR Shadow Report 2005: Racism in Hungary, European Network Against Racism (ENAR)

Houtzager, Dick: Changing Perspectives: Shifting the Burden of Proof, ENAR June 2006

Office for National and Ethnic Minorities Budapest, Hungary: Selection of news on national and ethnic minorities in Hungary, January-April 2006

Internet sites:

http://www.amnestyusa.org/racial_profiling/index.do

<http://www.budapestsun.com/cikk.php?id=25760>

www.egyenlobanasmod.hu:

www.errc.org

www.nemzetkozijogert.hu

www.menedek.hu

www.policy.hu
www.unhchr.ch/housing/fs21.htm

9. Annex 1: List of abbreviations and terminology

CEMI – Centre for European Management Intelligence
ENAR – European Network Against Racism
ERRC – European Roma Rights Centre
ETA – Equal Treatment Act (Hungary)
EU – European Union
EUMC – European Monitoring Centre on Racism and Xenophobia
HUF – Hungarian Forint
ILRHMC – International Law Research and Human Rights Monitoring Centre
NEKI – National and Ethnic Minority Office
NGO – Non-Governmental Organisation
MENEDEK – Hungarian Association for Refugees
SZETA - The Szegényeket Támogató Alap Egri Foundation

