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**HINTALOVON**

Gyermekjogi Alapítvány

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# **CHILD RIGHTS REPORT 2020**

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# FOREWORD

For most people, 2020 meant coronavirus. The global pandemic has transformed our everyday lives, changing the way families and children work, study, spend their free time or even see each other. It has also increased the importance of the internet, healthcare, financial security and the way people treat each other at home and online. Legislation and executive decision-making took centre stage, with an increased need for trust toward these institutions and their responsibilities.

The pandemic gave us firsthand experience in the consequences of the protection and support we are able to receive as well as how our opinion is valued. In other words, we experienced the importance of our rights being enforced.

The enforcement of children's rights can also be observed in everyday situations. It is not the pet-peeve of civil society nor is it merely an issue relevant only for policemen, judges and other officials and authorities.

**Children's rights are a promise by the state so that children under 18 may grow up in a safe and supporting environment and that the state will provide the means for their healthy upbringing and self-expression.**

How well did this go in 2020? What did this extraordinary year bring for a first-grader or a child living in poverty in terms of digital education? What did a child go through after being bullied online and have their pictures misused? What did a self-searching child encounter or how was the life of a displaced infant? These issues are all concerned with children's rights and their enforcement.

This year marks the fifth time we produce a compilation of the most important children's rights issues of the previous year. The child rights report gives a comprehensive overview of the situation of those under the age of 18, based on legislation, measures, available statistical data and programmes or campaigns, taking into account the media and societal reactions as well. Our thorough analysis **highlighted 3 recurring or key topics: coronavirus, exclusion and the issue of sexual abuse.**

We hid behind masks while at the same time we also gave a closer insight into our private lives through webcams and social media. Families spent more time together, but the pandemic has rearranged social relations, with the increased distance or closeness posing new challenges for everyone. The usage of helplines doubled, alcohol intake and addictions grew among both children and families. The deficiencies of the social care system and legislation were clearly visible, while due to the pandemic not only did we have to face new challenges but pre-existing inequalities were also enhanced. Disadvantaged families were overburdened and the growing family support measures proved insufficient. The pandemic made us more alert to previously less important issues such as data protection and digital safety, tackling fake news and the lack of teachers, doctors and psychologists. We experienced how important proper information is, as well as the importance of stakeholder participation and grassroots initiatives. Our vulnerabilities, exposedness and interrelatability became obvious, giving a push for social responsibilities and cooperation. Cooperative efforts included providing families in need with digital tools, to combat domestic violence while teachers and parents had to cooperate in the best interests of children. We have become more isolated and connected at the same time, forming a new alliance in our shared fate. Being locked-in, the value of freedom expanded.

This was the environment children had to live in. That is how they spent half, a quarter, an eighth of their lives and the sensitive months where their once-in-a-lifetime moments happened. Not only were rites such as birthdays and school leaving ceremonies cancelled, many children with disabilities could not receive their special education and care or disadvantaged children could only dream of participating in digital education. The schools moved into our homes, teaching resuming in September on the basis of the new National Curriculum, with 2/3 of children feeling that their freetime was not respected.

2020 and the pandemic were a race against time with legal regulations often lagging behind. The pandemic provoked a legislative rush that exceeded even the tendencies of previous years. There was a legislative amendment affecting children every week – more than 60% of which were related to the pandemic. Most of these were reactions to the changes in education, the need to urgently adapt led to the needs of children being jeopardised. The prohibition of visiting in children's homes and the altering of child protection services, general practitioner and district nurse services, the backbone of which are face to face meetings, resulted in or left uncovered numerous problems.

**The pandemic highlighted how easily certain children's rights may collide with each other in times of crisis.**

The necessity and proportionality of the restriction of fundamental rights received a lot of attention, specifically in relation to the blanket ban on gatherings, the restriction of visiting rights in hospitals or the suspension of asylum requests. In situations like this, it is key to understand and implement one of the fundamental guiding principles of the UN CRC, namely that the best interest of the child should be upheld in any issues or circumstances affecting them. As the commissioner for fundamental rights put it: the public health crisis cannot reduce children's rights to a mere formality.

2020 was the year of restrictions, but not only due to the pandemic regulations on when and where we could go. **Several discriminative measures have been adopted.** The 9th amendment of the Fundamental Law of Hungary excluded specific groups of children and parents from constitutional protection, paving way for further exclusion. The definition of family and the protected circle of self-identity and values shrank, while LGBTQIA+ children and sexual education came to the centre of attention. The independent Equal Treatment Authority was disbanded and integrated into the office of the commissioner for fundamental rights, further restricting legal protection. The Parliament refused the ratification of the Istanbul Convention and single persons' or same-sex couples' chances for adoption became very slim.

Meanwhile, **important progress has been made regarding sexual exploitation of children and the**

**protection of victims of violence.** The law finally considers children affected by prostitution as victims rather than perpetrators. It took a politically sensitive scandal with more than 20.000 children affected to raise awareness on online abuse and responsible use of social media – not unrelated is the fact that the number of paedophile content reported to authorities doubled compared to the previous year and rose sixfold compared to 2016. The capacity of crisis ambulances and helplines were increased and steps were taken to introduce the Barnahus model, including a government campaign on the protection of families, women and children. The prevention of violence in schools was the subject of constant debate and school guards were introduced.

Another important event of the previous year was the conclusion of the UN periodic review on the situation of children's rights in Hungary. Notwithstanding the coronavirus rearranging priorities, each day provides us a chance to realise the recommendations of the UN CRC Committee.

As it is most likely already clear, the 2020 report is mostly based on measures and legislation, rather than data. Petitioning for public data was considered to be "jeopardising care" resulting in grave difficulties to obtain valid statistical data; this is not only important for the quality of this report but also raises questions whether transparent, evidenced-based and coordinated decision making was maintained in ministries and authorities.

In 2020 it often seemed as if life had stopped completely, yet the crisis induced some long-awaited changes (although not those urgent in a time of crisis). It could be felt that along with families, the issues of children also became an ideological topic. Their involvement in issues was a spark for heated socio-political debate. The emergence of issues around children's rights is enhanced by discussions and professional debates about children, raising a child and creating a safe environment. Nevertheless, it is important that a children's right perspective is adopted in these discussions in the face of the growing political-ideological narrative. We hope that our current report contributes to this perspective and serves as a reliable basis for both professionals and non-professionals.

# Methodology

*The report is based on consistent methodology. Similarly with previous years' reports, it summarises what was most important from a children's rights perspective in 2020. We have collected data and information from three fields:*

- new legislation and amendments passed or entered into force in 2020;*
- published professional material, statistics and other sources of information released in 2020;*
- reports, news and media coverage aired in 2020.*

Compiling the report is based on thorough research (actually, information and data are gathered all throughout the target year), which provides the groundwork for our decision-making and how we pinpoint the most significant changes, reforms and challenges in each field from a children's rights perspective.

Access to information and data has always been an obstacle, in 2020 it was even more challenging as the rules on access to data of public interest were amended during the pandemic. The relevant Decree increased the deadline of answering a request to 45 days from 15, which could also be furthered by an additional 45 days, meaning that if the completion of the request of access to data of public interest would endanger the data holder's public duty vis-à-vis the pandemic, the total deadline could be as long as 3 months. During the compiling of our report, several ministries and authorities took advantage of this benefit when responding to our requests. This resulted in a delay in the closing of our report.

The Child Rights Report of 2020 was drafted by experts of the Hintalovon Child Rights Foundation, with the direct involvement of professionals from other organisations in certain parts of the report. The first version of the report was brought before expert forums of the Articles of the UN CRC and discussed thoroughly.

Similarly to the reports of the previous years, the report follows the structure of the reporting process to the UN CRC Committee. This is the first year when we use the structure of the new recommendations the Committee published in 2020. The chapters and nomenclature follows the Concluding Observations of the Committee.<sup>1</sup>

Our previous reports are available at [www.hintalovon.hu](http://www.hintalovon.hu).

We kindly ask that any remarks regarding the 2020 report be sent to: [info@hintalovon.hu](mailto:info@hintalovon.hu). Thank you!

1. An interesting change is that the latest observations devotes a separate chapter for children with disabilities, instead of discussing it under health and wellbeing.

# GENERAL MEASURES OF IMPL- MENTATION

## Legislation and other measures

In 2020, the pandemic brought changes in almost all areas of life, thus, it also changed the legislative tendencies of the government. Compared to previous years, the proportion of government decrees increased rapidly, in 2020 53.5% of all laws were government decrees.<sup>2</sup> In numbers, this means that 236 government decrees were adopted relating to the state of emergency and 21 related to the handling of the pandemic.<sup>3</sup> Most of the legislation and governmental decisions and measures adopted during the pandemic – directly or indirectly – affected children living in Hungary.

In 2020 a total of 57 legislative amendments were adopted that were directly related to children, half of them adopted in reaction to the pandemic (33), while 24 were irrelevant to the coronavirus.<sup>4</sup>

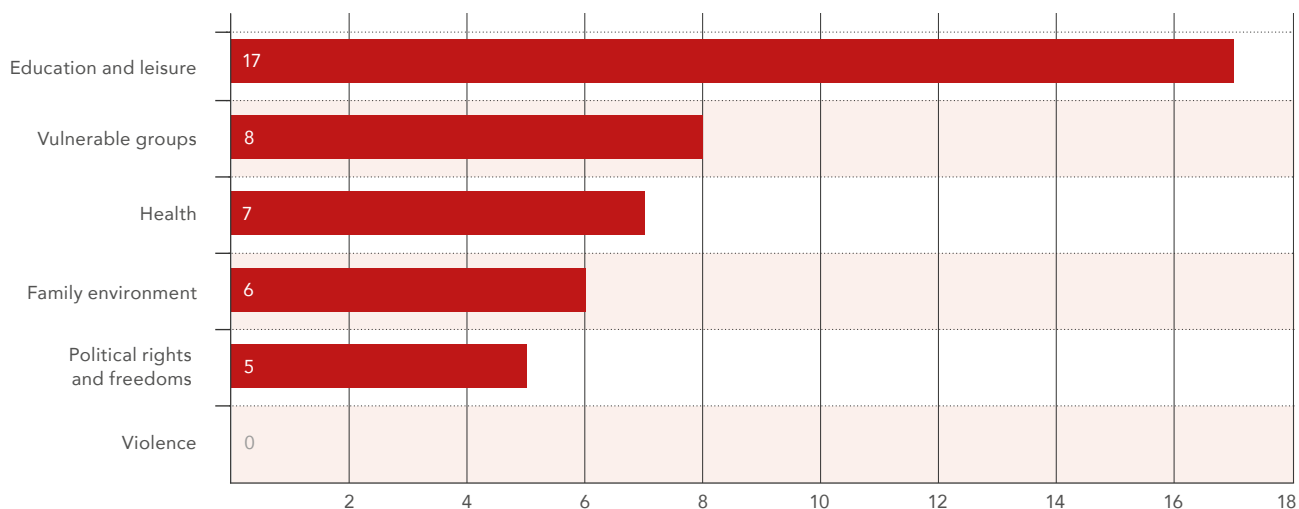
Most legislative measures in 2020 targeted education, mainly in relation to the introduction of digital education. It is interesting however, that few of these changes addressed family environment and legislation – despite a direct call from the ombudsperson – failed to address violence against children during the pandemic.

2. **Statistical data** from the editorial board of the Wolters Kluwer Jogtár.

3. See footnote 2.

4. Based on the Hintalovon Foundations assessment. The compilation is available: [hintalovon.hu](https://hintalovon.hu).

Proportion of coronavirus-related legislative changes affecting children in 2020<sup>5</sup>



The Government introduced a state of emergency on 11th March 2020<sup>6</sup>, which was terminated on 17th June<sup>7</sup> only to be reintroduced on 3rd November 2020.<sup>8</sup> It is still in force at the time of the conclusion of our report. The state of emergency means that the government has the power to suspend specific laws with its decrees and to restrict the fundamental rights of citizens – including children – to a greater extent. It is vital that even during a state of emergency certain safeguards are in place to protect fundamental rights.<sup>9 10</sup> The commissioner for fundamental rights also highlighted that the pandemic defines and changes many things, nonetheless, it cannot jeopardise children's rights, as

children are among the most vulnerable, making their fundamental rights' protection unquestionable even during a state of emergency.<sup>11</sup>

A number of measures have been taken during the pandemic to tackle the challenges and problems:<sup>12</sup> the family support scheme was enhanced with more favourable conditions (see Chapter H.) and the Ministry of Human Resources (EMMI) developed guidelines to assist child protection services. These measures however, could only partially respond to the novel challenges, while often those most vulnerable were the ones left behind, further widening the equality gap.

5. The Foundation's own assessment. A legislative act may be present in multiple categories.

6. Government Decree No. 40/2020 (III. 11.) on the introduction of the state of emergency. The prime minister has been appointed as the member of government responsible for tackling the pandemic, assisted by an operative body.

7. Government Decree No. 282/2020. (VI. 17.) on the termination of the state of emergency introduced 11th March 2020.

8. Government Decree No. 478/2020 (X. 3.) on the introduction of the state of emergency.

9. Articles 53. and 54. of the Fundamental Law of Hungary.

10. This is important because the **EU report** on the rule of law considered Hungarian legislation to be worrying for transparency and quality reasons and that the state of emergency powers of government had a negative impact on the checks and balances.

11. **Overview of the ombudsperson's activities 2020**, p.11., 1.1.2.

12. Measures included medication benefits, payment moratorium, foundation of the Voluntary Action Group, daytime care for children and free of charge internet access.



The most active area of pandemic legislation – with a direct impact on children’s lives – was the massive reform of education. The new National Curriculum was introduced in January<sup>13</sup> and entered into force in September despite wide criticism and the pandemic situation. In March, the state of emergency fundamentally changed the education system as a whole. Students, their parents and teachers all had to adapt to a digital education environment practically overnight (over a weekend to be exact)<sup>14</sup> without any meaningful methodical, technical or data protection assistance. The Ministry of Human Resources developed an **action plan** to ensure a more prepared start to the school year 2020/21.

In some cases legislative action lagged behind the challenges of the pandemic and the needs arising from it.<sup>15</sup> Nursery and kindergarten duty hours were only ordered after most parents had already taken their entire year’s worth of available time off. Children with autism spectrum disorder were only given an **exemption from the mask mandate** in November 2020, half a year after the introduction of the state of emergency.<sup>16</sup> The situation of displaced children was negatively impacted by the prohibition of visitation. No regulation was adopted regarding the visitation rights of divorced parents.

*“Exception should prove dignity.”*

Source

The new legal background<sup>17</sup> transferred the enforcement of visitation rights from the guardianship authority **to the courts** from 1st March 2020. This reform is promising vis-à-vis its possible effect on the length of the procedures. While the guardianship authorities only issued a final decision in 1/3 of these cases between

2016–2019,<sup>18</sup> in 2020 the courts issued a final decision in 3/4 of the cases, according to data from the National Office for the Judiciary (OBH).<sup>19,20</sup> Act no. CXIX of 2020 also introduced important procedural amendments related to visitation rights that enter into force in 2021 expanding the competence of courts in these matters.<sup>21</sup>

13. Gov. decree no. 5/2020. (I. 31.).

14. Gov. decree no. 1102/2020. (III. 14.).

15. Without proper rules and legislation vulnerable groups face a disadvantage. (see Chapter C.).

16. Gov. decree no. 509/2020. (XI. 19.).

17. Act no. CXXVII of 2019

18. Source: KSH 1210 OSAP data collection on guardianship authorities.

19. OBH (2020). Public data inquiry.

20. Out of the 4216 cases initiated between 1st March and 31st December 2020 the courts closed 3082 with a final decision. In almost every fifth case (579) the courts accepted the request and in only 8 cases did they order a financial sanction. [Public data inquiry OBH 2020.]

21. The amendment of the civil procedure code prescribes that courts may ex officio decide on the custody of the child, visitation rights and child support. The court adopts urgent procedure rules in cases of fatherhood upon information of an ongoing adoption procedure. The courts were also given the obligation to make a signal upon notice of child endangerment.

Apart from the pandemic, an important event was the amendment of the Public Education Act in July, which expanded the right to free access to primary and secondary education for all students, even above the age of 18. Further safeguards were also introduced, such as the guarantee also to ensure free participation for children with special needs and disadvantaged children.<sup>22</sup> Furthermore, the amendment introduced the much objected to position of school guards (see Chapter E.).

A new action plan was adopted<sup>23</sup> regarding the implementation of the National Disability Programme, covering issues such as social inclusion, healthcare, early intervention and education.

**The force of the media and society to influence legislation was clearly demonstrated following the 2019 child murders in Győr.** The event prompted legislative reform to further protect the victims of domestic violence (see Chapter E.).<sup>24</sup>

In the fields of child sexual abuse and exploitation as well as human trafficking, long-awaited legislative reforms were carried out. The national strategy on human trafficking 2020–2023<sup>25</sup> has a special focus

on victims under the age of 18, and the amendment package adopted through Act no. V of 2020, welcomed by all stakeholders, finally proclaimed underage persons affected by prostitution as victims rather than perpetrators.

The Ministry of Justice (IM) designated 2020 as **the year of assisting victims**, which made it rather worrying that despite the calls from the **European Parliament** and professional organisations, the Hungarian Parliament refused the ratification of the Istanbul Convention targeting the prevention and eradication of domestic violence. Even though Hungary **signed** the Convention in 2014, formally adopting its provisions, the Parliament's political message made it clear that acceptance of the legally binding nature of the convention is facing political, rather than professional barriers.<sup>26</sup>

Several amendments were adopted regarding adoption, which attracted criticism from civil organisations and experts alike.<sup>27</sup> The legislator framed 2020, this contradictory, difficult year full of challenges by the 9th amendment of the Fundamental Law of Hungary (see Chapter C.). The relevance of this will be discussed under Chapter C. Non-discrimination.

22. The amendment meant that the right to free education would not end with the GCSEs, it included a second vocational training or second accredited training as well as secondary grammar school education. It was also prescribed that daytime schools may be organised in digital form and upon infringement of students' privacy rights the institution has to pay for non-pecuniary damage based on the civil code rules.

23. Gov. decree no. 1187/2020. (IV. 28.).

24. Act no. CVIII of 2020.

25. Gov. decree no. 1046/2020. (II. 18.).

26. The explanatory memorandum included the Istanbul Convention's approach based on the definition of gender, providing asylum based on gender and external pressure. In its reasoning it cited the Fundamental Law of Hungary which restricted marriage to a man and a woman and the family based on marriage.

27. Act no. LXV of 2020 and Act no. CLXV of 2020, entry into force 1st March 2021.

## Resource allocation

The budget for child protection and nursery care was increased. The budget act of 2020 – also, the explanatory memorandum of the act – raised the funding of social, child protection and child wellbeing services by 26%, and the funding of child wellbeing centres by 10%.<sup>28</sup> The funding of kindergarten and school social

services stagnated, but the financial support for nursery care doubled.<sup>29</sup> Another change was that school district centres became financial bodies.<sup>30</sup> However, due to the pandemic, several amendments altered the budget act of 2020.<sup>31 32</sup>

## Independent review

The **Commissioner for Fundamental Rights** remains an important actor in the independent review of children's rights. The Office of the Commissioner informed us that their caseload was constant during 2020, a total of 287 cases were examined and 15 reports relevant for children's rights were published. The pandemic and the measures flowing from it had an effect on the whole spectrum of child rights protection, this was also evidenced in the cases dealt with throughout the year. In relation to measures adopted from March 2020 the complaints described the rules against accompanying children into nurseries and kindergartens, thereby violating the best interest of the child as well as regular complaints about the difficulties of online education.

In order to review children's rights during the pandemic, the ombudsperson appointed at the end of 2019 deemed it important to carry out field visits to children's homes and other facilities.

In November 2020, the Government decided that the Equal Treatment Authority be integrated into the Office of the Commissioner for Fundamental Rights (AJBH). From 1st January 2021 a designated department of the ombudsperson's office deals with complaints related to discrimination (see Chapter C.).

28. See footnote 31.

29. The new rules include an x2 multiplier for children with special educational needs, x1.1 multiplier for disadvantaged children and x1.2 multiplier for children with multiple disadvantages.

30. The centres continued to function under the Klebelsberg Centre.

31. The most important legislation amended: gov. decrees no. 69/2020. (III. 26.); 92/2020. (IV. 6.); 173/2020. (IV. 30.); Act no. LX of 2020.

32. The budget of education was not increased and the increased funding of religious schools further increased the disadvantages of state schools. The report covers others areas too.

## Civil cooperation and awareness raising on the Convention

The latest **concluding observations** of the UN CRC Committee once again drew the government's attention to the importance of cooperating with civil society on the matter of effective child rights protection.

In February 2020, the Family Law Civil Working Group was created with the participation of almost 60 NGOs, to help the protection of families, women and children. The working group is governed by the Ministry of Justice with an aim to examine legislation and legal practice and to make recommendations if needed.

The pandemic highlighted the power and necessity of intersectoral cooperation (**civil**, governmental and business). Numerous statements, publications and initiatives helped the informed decision-making and work of legislators and professionals so that children's rights could be respected during the pandemic. The Child Rights Civil Coalition with almost 30 members produced recommendations for the Ministry of Human Resources, and the Office of the Parliament provided an information booklet for international children's day on the effects of the pandemic and their relevance to children's rights.

*"All children have the right to understand what is happening around them. Visualised information sheets have to be developed in plain language, understandable for children and be presented to them on channels they use. Easy to understand information is also key for children with disabilities."*

Source

It is regrettable that the statements and petitions of the Child Rights Civil Coalition remained unanswered by the government or were refused flat. Hasty, one-sided decision-making by the government was a recurring criticism in 2020.<sup>33</sup>

Successful implementation of children's rights requires that non-governmental organisations can function without barriers in an environment that facilitates their work. In June, the Court of Justice of the European Union delivered a **judgement** ruling that the **Hungarian regulation of NGOs** violates EU law, nonetheless, the law has remained unchanged.

33. E.g. the introduction of school guards, closing of the Equal Treatment Authority, organising the GCSEs.

# THE DEFINITION OF CHILD

*"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." (excerpt from Art. 1. UN Convention on the Rights of the Child)*

Hungarian **law** requires the guardianship authority's approval for children to get married from the age of 16.<sup>34</sup> According to data from the Central Statistical Office, the number of minors getting married decreased in recent years. In 2019 the number of minors who

entered into marriage was 308, with girls disproportionately affected (10 times as likely as boys). Although  $\frac{2}{3}$  of girls married an adult man aged 18-24, in many cases a wide generational gap could still be present.<sup>35</sup>

*"The guardianship authority decides on the approval or refusal via-a-vis the marriage after the hearing of the parent or guardian. There is no need to conduct a hearing with a parent whose parental rights are wholly removed, resides in an unknown location or if the hearing is otherwise impossible."*

Source

The age requirement for marriage is vital as children become adults with marriage, thus, they lose their rights under the UN CRC. Reinstating the age of 18 as a requirement for marriage is a recurring<sup>36</sup> topic

in human rights analyses. The UN CRC Committee reiterated the need to amend the Civil Code in its **concluding observations** in 2020.

34. Civil Code section 4:9.

35. Source: KSH data collection on Act no. CLV sections 30 and 28.

36. The UN Human Rights Council periodic review **working group's** recommendation in 2016 already included the raise of age limit for marriage to 18 for both girls and boys.

The Government **argued** before the Committee that in certain subpopulations (e.g. roma community) child marriage is a cultural issue, thus, they would feel violated if this right was denied. The Committee – citing Hungary’s obligations under the Convention – called on the government to stop politicising the issue and abolish any exceptions from the age requirement

of 18. It is promising that during a June session of the Children’s Rights Thematic Working Group<sup>37</sup> it was said that the introduction of the 18 year age requirement would be looked at and possibly, the government could even agree to it. The Ministry of Human Resources refused to comment.

Marriage data of minors 0-17 between 2016–2019 per sex. Source: Central Statistical Office data collection titled “Marriage page” based on Act no. CLV of 2016 sections 28 and 30.

Year	Boys		Girls		Total	
	actual number	per 1000 persons of the same age	actual number	per 1000 persons of the same age	actual number	per 1000 persons of the same age
2016	37	0,04	388	0,46	425	0,25
2017	33	0,04	370	0,44	403	0,24
2018	32	0,04	346	0,41	378	0,22
2019	25	0,03	283	0,34	308	0,18

37. Session of the working group for children’s rights Vii/69/2/2020, memo dated 23rd June 2020. 13:00

# GENERAL PRINCIPLES

## Non-discrimination

*“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” (excerpt from Art. 2. UN Convention on the Rights of the Child)*

Following Act no. CXXVII of 2020, the Commissioner for Fundamental Rights **took over** the duties of the Equal Treatment Authority from 1st January 2021. The explanatory memorandum of the act states that the ombudsperson's functioning ensures that this integration enhances the effectiveness of fundamental rights protection. However, professional organisations expressed their concern over the disbanding of the Equal Treatment Authority. **According** to the National Association of Persons with Autism, the integration results in the loss of a petitioning opportunity, as the Equal Treatment Authority and the ombudsperson adopted a different stance in multiple previous instances on the same legal issue. The Civil Coalition published a **statement** which criticised the irreconcilability of the Equal Treatment Authority's scope of conduct with that of the ombudsperson, which rests on personal authority, legal reasoning and transparency and publicity rather than sanctioning powers.<sup>38</sup> It is further stated that the ombudsperson's activities and work vis-à-vis vulnerable groups already gave room for criticism. The Office of the Commissioner for Fundamental Rights informed us that at this moment, there is currently no data or experiences on their new activity.

During the pandemic the lack of tailor made measures for vulnerable children was often noticeable. Children living in care homes could not leave those premises for 40 days due to the government's decree prohibiting visitation from 19th March 2020, and in many places they had no chance to keep in touch with their natural families or relatives (not even via digital means) and their right to education was also jeopardised due to a lack of digital equipment in the care homes.

Digital education further eroded vulnerable children's access to education as they lacked digital equipment and a supportive environment. **Roma children** were especially hindered by the lack of planning and poor quality digital equipment. According to the **Rosa Parks Foundation** digital education highlighted the already existing obstacles and issues – apart from the broadly documented lack of digital equipment and poor quality internet access, the lack of digital knowledge and basic requirements for self-studying, such as adequate space and environment were also lacking.

38. Vulnerable groups were disproportionately affected by the closing of the authority.

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*“Due to the lack of internet access or equipment for many children a great deal of digital learning material was unavailable, or even if they had the necessary equipment, the families lacked the digital know-how to use these digital means (e.g. entering Zoom or Google classroom proved to be impossible for them, the use of the Kréta system or even using an e-mail address).”*

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**Source**

The 2020 amendment of the Public Education Act prohibited financial compensation in school segregation lawsuits. The amendment followed a decision of the Regional Court of Eger regarding Gyöngyöspata where the court ordered the state to pay compensation to the roma children subjected to segregation for years. According to the new legislation, courts can only order the school to provide education and training services as a result of a segregation lawsuit. NGOs turned to the Commissioner for Fundamental Rights in an open letter, expressing that the new law violates non-discrimination and goes against EU law which clearly prescribes that the sanction of racial discrimination shall be effective, proportionate and prevent future violations.

The **9th amendment** of the Fundamental Law of Hungary contained several provisions narrowing the concept of family and restricting children’s rights. The amendment restricted the protection of the child’s identity to only the identity of sex at birth, prescribes an upbringing based on christian values and self-identity and also proclaims that the mother is female and the father is male. The Children’s Rights Civil Coalition published a **statement** expressing that the amendment discriminates children who have a family member or themselves with a sexual identity different from one’s sex at birth. The amendment violates the fundamental right of parents to choose the upbringing of their child and discriminates against non-Christian ways, such as a non-religious upbringing.<sup>39</sup>

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39. The aim of the amendment was to prohibit the sex change of under 18s. **Háttér Society** made a statement that the amendment also prohibits school information campaigns and violates the rights of LGBTQI children and their parents. See also Chapter F.





The rules of adoption were also amended: Attila Fülöp secretary of state for social affairs and Katalin Novák, minister of family and youth affairs give a media briefing on the new law. 12th June 2020

Photo: Márton Mónus/MTI

Related to the previously discussed two amendments, the rules of adoption were also reformed. According to Act no. CLXV of 2020 single persons can only adopt if given special permission from the minister of family affairs. The **statement of the Children's Rights Civil Coalition** criticised that the introduction of the minister's discretionary power is incompatible with Hungarian

traditions of adoption. The minister shall weigh the interests of the child. The Coalition called for attention that in adoption cases professionals should always look for a parent for the child and not the other way around, suiting the specific needs of the children and choosing the most suitable person or family for the child.

## The best interest of the child

*"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." (excerpt from Art. 3. UN Convention on the Rights of the Child)*

The realisation of the best interest of the child is difficult to measure, first, because it is a principle of the UN CRC that entails a certain approach and mentality, and second, because it prescribes a general obligation for the state to ensure the well-being and protection necessary for children. The pandemic in 2020 made the importance of the best interest of the child very clear: it showed how easily certain children's rights may be in conflict with each other in an emergency situation.

The right to health conflicted with several other rights, while the necessary and proportionate restriction of fundamental rights, the proper pace of legislation, special attention for vulnerable groups, politicised decision-making and stakeholder participation also received increased attention. The issues – sometimes indirectly – showed how or when the best interest of the child is a primary aspect in crisis decision-making.

*“The practice of automatic custody of children under 18 in misdemeanor procedures without clear reasoning and deliberation aspects is arbitrary and violates fundamental rights, thus, it is irreconcilable with the best interest of the child. [...]”*

Source

Explicit reference to the best interest of the child is scarce in the reasoning of NGOs, the government or the legislator. Positive examples are the statement of the Children’s Rights Civil Coalition on the new rules of adoption or several reports by the ombudsman, such as the report on custody of children and multiple hearings of children in sexual abuse cases. The interest of the child was present in the new Civil Procedure Code, but the concept of the best interest of the child was not adopted in any legal field.

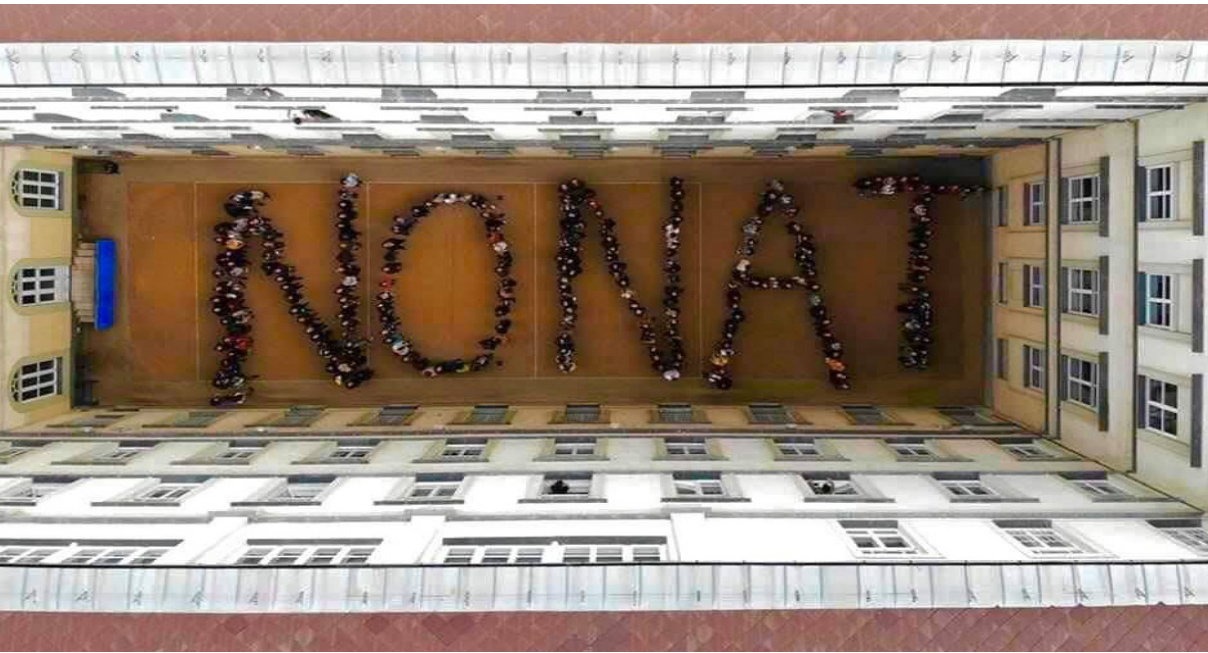
The best interest of the child requires the preliminary and follow-up evaluation of legislation and the effect of measures on children. The lack of these evaluations were criticised by the UN in a **report** in 2018, while in 2020 the UN CRC Committee expressed their regret that Hungary did not respond to the questions addressed to them on this issue. The Ministry of Human Resources refused to comment.

## Respect of the child’s views

*“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” (excerpt from Art. 12. UN Convention on the Rights of the Child)*

Our request from the National Office for the Judiciary (OBH) of data on how many times children under the age of 14 were heard in custody and visitation rights cases was denied on the basis that the OBH does not collect such data.

It is an important step forward that neglected and abused children (especially those abused sexually) have the option from 2020 to be interviewed by one forensic psychologist or counsellor of the child protection services in a protective environment. Preparations were made to introduce the Barnahus model in Budapest (it was already in place in Szombathely) and other areas.



Students of the Eötvös József Secondary School protesting against the new National Curriculum 28th February 2020.

Source

In previous years political participation of students was mostly seen for protests (see Chapter D.), before introducing the ban on gatherings, the new National Curriculum mobilised students. After the ban on gatherings, focus was moved to online consultations and participation in decision-making. Two surveys

stand out in this field. The ADOM Student Movement conducted a national survey on digital education with **21.000 student** participants during the first wave of the pandemic, the National Student Council' survey on digital workload reached over **8.000 students**.

*"Many of the students answering the survey said that online education should not be called digital education as long as it is nothing more than the use of traditional teaching methods through the internet – calling attention to the need to update teaching methods and the approach to education. They would like to see online communication improved between students and teachers, easing the workload and for the KRETA system to be user-friendly."*

Source

The pandemic increased children's interest in public issues and reinforced that children are mostly interested in educational matters. No discussions were

held about other aspects of the pandemic – although a **global survey** was delivered in the matter, in which Hungarian children also participated.



After 3 years, in 2020 the **National Student Parliament** held a summit. The regional candidates phrased their recommendations in 45+1 points for the government's education branch and asked for the reinstatement of participation rights of student councils in various

fields, such as the school rules of conduct and principal applications. Most of the recommendations were about transparency and for children to be better aware of their rights.



After 3 years of absence, the 10th National Student Parliament Summit was held between 31st January and 2nd February 2020.

Photo: Erika Simon

Source

A promising step forward in the strengthening and transparency of official advocacy forums was the launch of the **National Student Information** website in May 2020. On the website the youth advocating for students inform them of relevant news and hope to facilitate the discussion between students and those advocating for them.

The "Step up!" campaign of the National Youth Committee was concluded at the beginning of 2020 closing a series of group consultations held at the regional capitals regarding education, leisure, health, employment and digital wellbeing. The results were not available online at the time of closing this report.

The situation of children and the youth's political participation can only be observed from a wider point of view.

Their attitude to freedom of expression is influenced by the social and political climate they live in, thus, it was important to see how the activism and opinion of students from the University of Theatre and Film Arts was treated vis-à-vis the reform of the institution, which was also one of the key events of 2020. Similarly important was the situation of freedom of expression in schools, where the ombudsperson found that rules of conduct blocking information in schools to the media severely violated constitutional standards. Another clear example was of a student living in the children's care home of Fót. The student published a highly critically toned rap video, resulting in disciplinary actions against him, during the investigation phase, he was not allowed to go to work. Freedom of expression is respected only if it has no negative consequences to the children themselves.

# CIVIL RIGHTS AND FREEDOMS

## Right to freedom of association and peaceful assembly

*“The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers (...)” (excerpt from Art. 13. UN Convention on the Rights of the Child)*

2020 rearranged children's opportunities to express their views. The new National Curriculum prompted a student protest which had to be cancelled due to the pandemic measures. During the state of emergency, a blanket ban on assemblies was in force. The total prohibition was unique in Europe and it was especially disproportionate as the law provided exceptions for other events unrelated to the exercise of fundamental rights. The regulation did not allow assemblies to be organised or attended, even if they would have complied with pandemic safety measures, leading to a restriction which lacked necessity and proportionality according to NGOs – nonetheless, it turned attention to other forms of collective expression of opinion.

The previously described online and anonymous consultations provided new opportunities to enhance the participation of children and shifted the focus from the mobilisation of assemblies to information and representation. A new **survey** of 16 to 29-year-olds proved the benefits of online advocacy compared to demonstrations. Although the effectiveness of online consultations and protests are not comparable, the high participation in surveys and its media coverage, as well as the effort put into awareness-raising and information campaigns, showed that this form of expression can also be a loud, impressive and constructive way for children to participate in issues which affect them. In 2020 less critique was raised for the politicisation of children's opinions however, it cannot be known whether that's attributable to a less radical form, the pandemic or something else entirely.

## Protection of privacy

In 2020 pictures and recordings of children shared on the internet received wider attention. The growth of influencer marketing has resulted in a practice where children are presented in a way that does not reflect their self-identity, violates their privacy and exposes them without informed consent. The **Hungarian Competition Authority** published an information booklet on the proper involvement of children in advertisements,

while the Advertising Self-Regulatory Body published its **recommendations** on the minimum standards of involving children in adverts following broad consultations. The issue was addressed from the viewpoint of the meaningful participation of children and their rights (such as the right to privacy, information and expression), not only from their protection and prevention of exploitation which amounts to a change in approach.

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*“Protection of the privacy of children is especially important in advertising when the child is shown in his or her own family, with parents or friends or in other situations of family life. A typical example is the participation of the influencer parent, family and child. In these ads – especially if the advertising is done on social media – the private life of the child, family life and advertising may irrevocably be bound together, thus, protection of privacy is a key responsibility.”*

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**Source**

The increased online presence and webcam use that came with the pandemic highlighted new data protection issues and led to a closer insight into children's private lives. The National Data Protection Authority issued an information sheet vis-à-vis the mandatory webcam use during digital education, promoting the principle of data reserving and **children's rights**.<sup>40</sup>

According to a representative **study** among children aged 13-17, one quarter (23%) of teachers communicate through social media and private messages, oftentimes outside of school hours. The importance of safe use,

protection of privacy and need for regulation was also present in the recordings required for medical online consultations.

The consequences of children's digital footprint was highlighted most by a severe scandal, where a high-ranking diplomat was found in possession of over 20.000 child pornographic photos and videos. The Kaleta-scandal increased social sensitivity for unsafe use of social media and the need to protect children's privacy (see Chapter K.)

40. NAIH/2020/7127

## Access to information

*"States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health." (excerpt from Art. 17. UN Convention on the Rights of the Child)*

The pandemic **increased the need** for effective and proper information. Numerous child-friendly information material – including videos, leaflets, publications, books and games – were developed about the coronavirus pandemic, hygiene and pandemic measures, and

the secretary of state for family and youth affairs held a **media** briefing for children. It became clear that influencers, social media and children all play an important role in spreading information about virus safety and prevention.



Róbert Kónig M.D. made an educational video about the pandemic for children.

Source

Access to digital equipment and the internet had never before been as important as it was in 2020. In recent years **internet penetration gradually improved**. A **study** carried out by Ipsos with the participation of children aged 8-17 in 2019 showed that in certain areas children's understanding of digital equipment and their theoretical knowledge was almost maximal. Access to digital equipment was facilitated by many NGOs, the government and businesses, nonetheless, according to research and expert opinions many children still had obstacles to access, further hindering disadvantaged children (see Chapter I.).

According to a representative **study**, one-fifth of children did not find the internet safe and they were most bothered by misleading or false information following adverts online. The amount of **fake-news** grew and the media competences of children, teachers and parents came to the forefront. Initiatives targeting parents and teachers proved to be helpful. On 1st March 2020 Gyerekaneten.hu, the information **site** of the NMHH, was launched and in the autumn the NMHH opened another **media understanding centre** in Sopron.



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*"It concisely explains to the generation of parents how the digital world works where their children operate seemingly so confidently. The site covers many topics from algorithms to fact-checking, but its main objective is to influence parents to talk about the difficult questions of internet use with their children."*

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#### Source

The pandemic related urgent measures with short deadlines, self-contradictory messages and delays were problematic, such as the organising of the Matura examinations, the closing of schools or the availability and access criteria for services and benefits.

One of the most defining events for public opinion in 2020 was related to the information of children. A children's story book was ground to pieces for a political

stunt, because it presented behavioural patterns differing from the 'traditional' gender roles. This prompted a **debate** on whether these stories **endanger** the development of children and what responsible education of children means. The members of the Children's Rights Civil Coalition issued a **statement** about destroying a book and the violating nature of political statements.



# VIOLENCE AGAINST CHILDREN

*“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (...)” (excerpt from Art. 19. UN Convention on the Rights of the Child)*

## Abuse, neglect

In 2020 three times as many children were affected by domestic violence than in previous years (27 in 2019, 81 in 2020). The number of crimes committed against children also increased, approximately 500 more criminal procedures were initiated (6310). The third most common crime committed against children aged 0-13 was sexual abuse, as shown by the criminal statistics of 2020.<sup>41</sup>

Domestic violence received more attention than ever before. In 2020 during the peak of the pandemic's first and second waves a curfew was ordered, leaving families in unstable financial conditions and worrying, locked in together for months. Domestic violence reached a peak never seen before. Children were victims whether as observers or actual victims to the violence, spending their days in these conditions, as abuse not only has a

physical form, but also many others: verbal or emotional, furthermore, neglect also belongs to this category and children as observers are also subjected to this. The NANE and OKIT organisations' helplines had double the number of calls and police data showed that compared to the previous year 1.5 times more signals were received by them regarding domestic violence.

During the tensions that came with being locked in together during the pandemic, the government, NGOs, the media and also big businesses paid close attention to awareness raising vis-à-vis domestic violence and supporting victims. The financing of OKIT was quadrupled. Crisis ambulances were upgraded and an EU project was also launched until 2022 to prevent domestic violence and assist victims.

41. Source: ENyÜBS

*“Where the mother is hurt, children are also victimised in some form. Either the child is also being hurt or has to observe how one parent is beating the other.”*

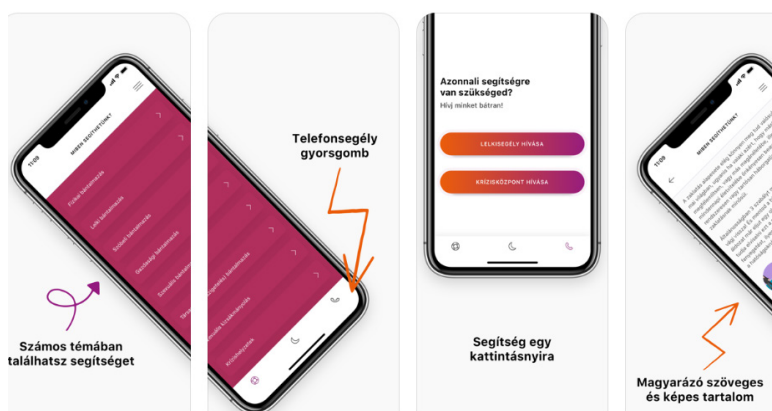
Source

Domestic violence was a common topic in the media, the Mércse site – with the help of NANE – launched a subsite showing all the cases that had appeared in the media since 2014 about children and women murdered as a result of domestic violence.

A **governmental campaign** was also launched on the noticing, prevention and averting of domestic violence and giving information on asking for help. The EMMI supported the Hungarian Interchurch Aid to launch a **campaign** on taking notice of signs of domestic violence. Along with the government and NGOs, big businesses also participated in this field – among others, **IKEA** and **AVON** also supported this cause.

In October 2020 the Parliament adopted an amendment taking a harder stance on domestic violence. However, according to experts, the amendment might not necessarily reach its aim. The amendment excludes the early release of those who had received an 8 or more year sentence for a crime committed against relatives, nevertheless, for instance a person abusing family members for years but not committing murder against them is still allowed to be released early – thus, the amendment does not protect the victims from abusers who resort to verbal, emotional or sexual abuse on a daily basis.

According to the latest (2019) statistics of the Central Statistical Agency one in every 10 children was endangered.<sup>42</sup> Child and family wellbeing services recorded 174.413 endangered children. This is a 1000 more than the previous year, even though the number of under 18s decreased by almost 100.000.<sup>43</sup> Although endangerment may be the result of various things, in more than half of these cases the main reason was some form of abuse or neglect.<sup>44</sup>



The “Notice immediately!” campaign was launched by the government on the noticing and prevention of domestic violence, including a mobile app which shows the various ways one can ask for help.

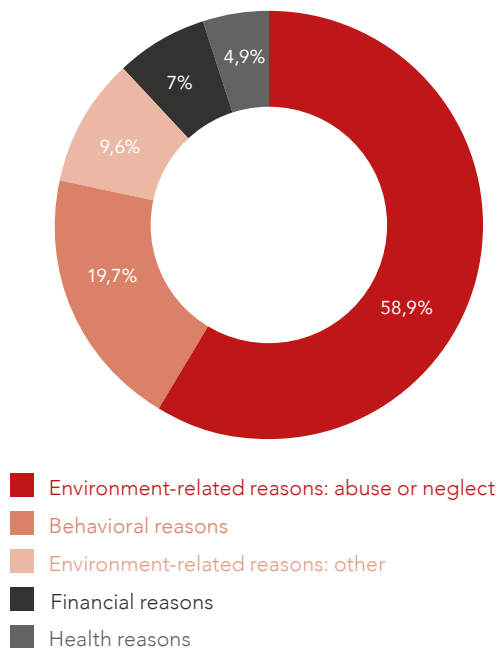
Source

42. Source: KSH 1696 OSAP data collection on child and family wellbeing services.

43. Source: KSH STADAT 22.1.1.3. – population, age and gender, 1st January (1980–2020)

44. The domestic physical, mental emotional, sexual abuse of the child, physical or mental negligence, lifestyle of parents (addictions, antisocial behaviour), indecent upbringing, endangerment by third parties, relatives, family or school conflicts and bullying.

Reasons for endangerment – The number of recorded endangered children based on the reason for endangerment, 2019 (%). Source: Central Statistical Agency 1696 OSAP data gathering.



According to child protection data by the Central Statistical Agency, 3849 children were endangered in 2019 because of domestic physical violence; in comparison the criminal data shows that an investigation because of physical violence against children was only launched in 1163 cases. Data on sexual abuse shows a similar picture: child and family wellbeing services registered 735 sexually abused children, whereas 417 investigations were launched. It has to be pointed out that criminal statistics do not differentiate between domestic and other forms of abuse. Nonetheless, it is clear that only in a fraction of cases was an investigation or criminal procedure launched.

## Corporal punishment

In 2020, UNICEF Hungary launched the **“Notice and do something!”** campaign against child abuse: they asked adults about the acceptance of violence against children. Even though there is a zero tolerance policy since 2005 on corporal punishment, 38% of the answers said that a smack does no harm to the child. Answers varied based on education, as almost half (42%) of those with lower education considered this to be fine, whereas it was 28% among higher educated persons. However, it was important that respondents considered emotional neglect and not allowing the child to speak as forms of abuse. This points forward to a path where abuse that results from mental harm is taken as seriously as physical abuse.

Notwithstanding the positive efforts, numerous serious cases were shared by the **media** and despite the zero tolerance for corporal punishment, the statement of a prominent person showed acceptance towards it. Furthermore, there were still occasions when sexual abuse of children was framed as adultery.

The pandemic measures were not the only new addition to schools. From September 2020 school guards were sent to certain schools to help keep order. School guards are employed by the police and have the power to stop a dangerous student, the power to call police or even resort to physical restriction in certain cases. Since the first news of the implementation of school guards

45. Source: **ENyÜBS**

46. Sexual violence, sexual abuse, sexual coercion, adultery, forced sexual acts.

in June, the Children's Rights Civil Coalition along with many experts spoke up against it, highlighting that it fails to address the issue of violence in schools. Nonetheless, the relevant legislation was adopted<sup>47</sup> and the Ministry of Internal Affairs issued a decree to put into law the powers of school guards.<sup>48</sup> The ombudsperson paid special

attention to the monitoring of school guards, concluding that school guards were aware of their responsibilities and that they were introduced to schools with a history of violence cases. In their first month, school guards had to intervene in 190 cases according to data from the police.

*"Where conflicts in school are mishandled, children, teachers and parents are all dissatisfied. Where tension and conflicts are not handled by means of pedagogy, psychology and social work, rather an exterior force of control is used, members of that community will not develop a true, internalised mechanism of problem solving."*

Source

It is interesting that the EMMI in 2020 **stated** on the day of preventing violence against students that school guards would be introduced to protect teachers.

During the pandemic a new form of abuse was born, **virus-bullying**. Virus-bullying means exclusion, mockery or abuse of any form that children – or adults – are exposed to as a result of illness. For example, if a child is excluded because of a family member falling ill or because of going to school directly prior to showing symptoms.



From September 2020 school guards were introduced to certain schools.

Photo: Dániel Röhrig/Népszava

Source

47. Act no. LXXIV of 2020 on the elimination and prevention of violence in schools.

48. BM decree no. 27/2020. (VII. 17.) on school guards.

# FAMILY ENVIRONMENT AND ALTERNATIVE CARE

*"States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child." (excerpt from Art. 9. UN Convention on the Rights of the Child)*

## Family environment

Family was a key topic in 2020 for multiple reasons: government communication put great emphasis on the support of families (see Chapter H.), social-political debate was present on what constituted a family and the pandemic also had a significant effect on family living and relations.

The 9th amendment of the Fundamental Law of Hungary provoked great debate<sup>49</sup> as it severely **restricted children's rights** (see Chapter C.). The members of the

Children's Rights Civil Coalition criticised the amendment on the grounds of children's self-identity and upbringing. They called attention to the principle that the state has no right to prescribe the correct way of upbringing. The amendment contradicts fundamental rights and the rights of parents under the UN CRC. The amendment was not only discriminatory towards intersex children (who usually have atypical sexual characteristics) but also stigmatised children of same-sex couples.

49. Section L) para. 1. of the Fundamental Law of Hungary was replaced by the following: Hungary protects the institution of marriage between one man and one woman, as a unity based on free choice and the family as the foundation of our nation's survival. The basis of family is marriage and the parent-children relations. The mother is female, the father is male. Section XVI. para. 1. was replaced by: All children have the right to proper physical, mental and moral development and care. Hungary protects the child's right to the self-identity of gender at birth and provide an upbringing based on Hungarian constitutional identity and christian values.

The pandemic had a significant impact on family life and family relations. Time spent together increased greatly, which according to an **international** as well as a **national** survey had a positive impact on family relations, nonetheless, the quarantine period also had multiple risks and negative consequences – the exercise of **visitation rights** were problematic and children were more

exposed to **domestic violence**. Due to the lockdown, children had little access to the professionals (members of the signalling system) who could have noticed signs of abuse or endangerment, thus the **chance to ask for help** was obstructed, as abusive relatives often controlled these channels.

*“The separated parent has visitation rights even during the lockdown. However, we had single-mother interviewees complaining that fathers still had these rights during the state of danger. The mother took the social distance rules very seriously, wanting the father, external to the household, to do the same, while anxious that this deprives her child of keeping a personal relationship with their father.”*

Source

Family atmosphere and the quality of time spent together was also affected by the extra tasks: family roles, work and home-schooling were great **challenges** for families to overcome. Regarding home-schooling

during digital education there was a **wide gap** between households, widening the divide and further hindering disadvantaged children.

## Displaced children

According to data from the KSH in 2020 22.934 children and young adults were in alternative care, 16.753 of them in foster care, and one in every 4 children were living in institutions.<sup>50</sup> We had already highlighted in our previous reports that from 31st December 2016 all displaced children under the age of 12 should have been placed in foster care, nonetheless, at the end of 2020, Hungary had not achieved this: of the 2590 children aged 0-2, 316 were living in institutions.<sup>51</sup>

At the closing of this report we do not have any statistical data on the number of foster parents or the capacities of institutions. From the 2019 data we can conclude that the number of foster parents declined from 5773 to 5515 in 2019. It is a worrying tendency that the number of foster parents decreased in all age groups with the only increase shown in foster parents above 60. An even worse tendency was the vacant jobs at institutions: in 2019 501 of the 3677 positions were vacant, a significant

50. The ombudsperson reiterated during a field visit that children shall not be displaced for financial reasons, which was a recurring issue in child protection.

51. Source: a KSH 1209 OSAP data collection on regional child protection services.



increase from 2018 (356).<sup>52</sup> This means that workers in children's homes were overburdened, increasing the already high rate of fluctuation. This all negatively impacts the care and protection of displaced children.

The pandemic disproportionately affected displaced children. The EMMI issued a **prohibition** on visitation and leaving the institutions.<sup>53</sup>

Being locked-in, the lack of external programmes and a drastic decline in opportunities to keep in touch with

others was a great mental burden for children and their communities. Digital education also proved to be very problematic in these institutions – many children's homes had no or insufficient digital equipment. The pandemic highlighted the lack of means in the institutions, which jeopardised the success and chances at school for children living in care. Professionals were already overburdened and on top of that they had digital education on their hands too, with the different groups of children in the institutions requiring different educational responsibilities and needs.



As many children's homes lacked the infrastructure to cope with digital education, a number of businesses donated digital equipment, such as new computers: for instance, Docler donated new computers to the children's home of Monor.

Photo: Márton Bérés/Népszava

**Source**

52. Source: a KSH 1208 OSAP data collection on the number of children's homes, foster care and external places.

53. We have also sent our **remarks and questions**.

*“The pandemic lockdown was a challenge for everyone. Nonetheless, children living in care and their carers had a disproportionate mental burden on them: children could not meet their classmates, friends, parents, there was no football field or playground available anymore. Carers had a difficult time explaining the situation to the children and to keep them occupied, help them study and keep up with school and digital education, while a children’s home in the capital reported that they have two computers for every 10-12 children.”*

**Source**

The ombudsperson published several reports regarding children’s homes in 2020.<sup>54</sup> The ombudsman stated after a visit to a children’s home in the capital: “I have to reiterate that the conditions displaced children live in is even worse than the conditions they were displaced from violates the obligations under the CRC.” An ombudsperson’s investigation in 2016 in the children’s home of Kalocsa found several irregularities. In 2020 children from that institution made complaints regarding abuse, and in October the media aired that the priest caring for the children had a child molestation scandal before, leading to the removal of the priest from his position in the clergy.<sup>55</sup>

2020 brought multiple reforms in the adoption system (see Chapter A. and Chapter C.). Several of them aimed at easing the requirements for adoption. A welcome change was the introduction of the adoption benefit

which improved the chances of older children being adopted. Another positive change was the extra 10 days of leave for prospective adopting parents during the “befriending” phase. However, from a children’s rights point of view, several amendments were worrying, such as the termination of the previously mandatory training and the requirement of the minister for family affairs’ approval for the adoption by single parents. These changes made it more difficult to find the most suitable adopting parents for the children. The Children’s Rights Civil Coalition published an elaborate list of recommendations.

The ombudsperson published a report on the challenges of adoption of siblings living in alternate care. The report highlighted that the practice had to be reformed so that siblings would be placed together unless there was an impossible obstacle.

54. Reports available in Hungarian:

Az alapvető jogok biztosának jelentése az AJB-1394/2020. számú ügyben  
Az alapvető jogok biztosának jelentése az AJB-745/2020. számú ügyben  
Az alapvető jogok biztosának jelentése az AJB-1164/2020. számú ügyben

55. We have turned to the EMMI with an inquiry for public data regarding the number of signals of child abuse for children in care, but the EMMI informed us that they did not have any data regarding the specified year.



# CHILDREN WITH DISABILITIES

*“Recognizing the special needs of a disabled child, assistance (...) shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.” (excerpt from Art. 23. UN Convention on the Rights of the Child)*

The UN CRPD Committee published a **report** in 2020, in which the Committee found systemic and regular violations of the rights of children with disabilities, based on the findings of field visits and interviews. The Committee criticised the de-institutionalisation strategy of Hungary and called for its revision as well as the revision of assisted living and community based services. The Committee recommended the amendment of the Child Protection Act by abolishing the provision that provides an exception, to place children with disabilities under the age of 12 in an institution rather than with foster parents. The Committee also urged an independent and monitorable de-institutionalisation strategy for children with disabilities. The Committee further recommended that the government abolish the school segregation of children with disabilities and to develop an inclusive educational strategy for all levels of the education system.

A positive step by the government was the adoption of the action plan leading up to 2022 of the National Disability Programme 2015–2025. The programme aims to better the life and circumstances of persons with disabilities, and to enhance their inclusion and equality. The current action plan proclaimed 12 priorities, such as healthcare, complex rehabilitation and public transport. Early intervention, education and training were also separate priorities.

Despite the pledge for de-institutionalisation, there were still many large institutions where children and adults were placed together. According to data from the KSH in 2018, 777, while in 2019 694 children with disabilities aged 0-17 were placed in such institutions.<sup>56 57</sup>

56. Care homes, rehabilitation homes, rehabilitation facilities and care facilities for persons with disabilities.

57. Source: a KSH 1202 OSAP data collection on permanent and temporary residential institutions



During 2018–2020 no meaningful progress was made regarding the de-institutionalisation of children with disabilities.

Photo: Norbert Farkas/24.hu

Source

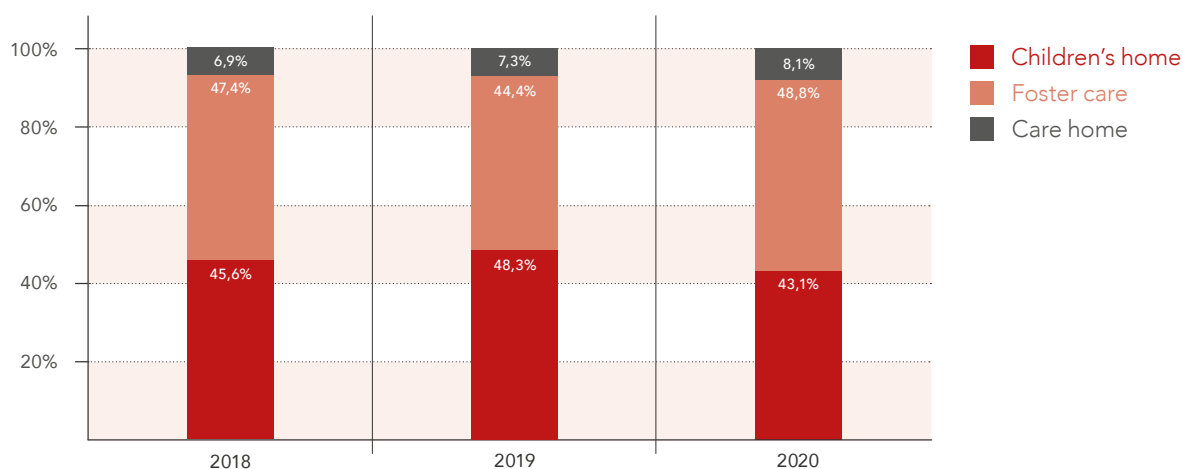
### Institutionalisation disproportionately affects children with disabilities who live in alternative care.

Data from the KSH showed that on 31st December 2020, 23% (4916) children aged 0-17 had special educational needs, which fit in with the previous years' tendencies. 40% of these children were placed in children's homes and 6% in care homes. If we view only the data regarding children with special educational needs, excluding other

forms of mental developmental hindrance – so only children with disabilities are taken into account, data shows an even worse picture. Less than half of children with disabilities lived in foster care (44.4%-48.4%) in previous years, that is also 70% of all children in care.<sup>58</sup> Data clearly shows that no progress was made in the matter of de-institutionalisation.

Children with mental, physical, sensory, speaking disabilities or autism-spectrum disorder and multiple disabilities in care, broken down to type of placement, 2018–2020 (%).

Source: KSH 1209 OSAP data collection.



58. Source: a KSH 1209 OSAP data collection on regional child protection services.

We mentioned in our previous report that from 1st January 2020, the amendment of the Child Protection Act allowed the placement of children in assisted living schemes. Although data from the KSH was not available for 2020, data regarding the previous year suggest that the option provided by the Social Act remained mostly unused, in 2018, a total of 2, while in 2019 5 children with disabilities were placed in assisted living.<sup>59</sup>

The KSH published detailed statistical data regarding the **school year 2019/2020**, showing that the number of children with special educational needs grew compared to previous years. Data also shows that 1/3 of children with special educational needs were excluded from integrated education. Special education for children with multiple or severe disabilities was provided for 2500 children. Regarding the school year **2020/2021** only preliminary data was available, showing that 93.736 children with special educational needs were in the education system. Special education was also provided for 2500 that year. Thus, data underline the CRPD Committee's urging of inclusive education.

An important change affecting children with special educational needs was the new National Curriculum which prescribed guidelines regarding their education, enforcing a bottom-up system from the school year 2020/2021. The new special educational needs **guideline** was not a law anymore, rather a separate regulative norm. A positive step forward was the adoption of a separate professional recommendation regarding children with behavioural problems.

The pandemic was a great challenge for the entire education system, and an even greater obstacle for children with special educational needs. The Lépjünk, hogy Léphessenek Foundation carried out an online survey on the access to education of children with special educational needs and children with disabilities. Among the children of the almost 800 parents completing the survey, 8.2% received no digital education at all, a further 15.1% received only once per week. 59% of the children of those completing the survey received daily special education. 59% of the parents gave a 3 or worse mark on the success of digital education.

*"We eat lunch at around 3, then I start working with him, although I'll be pretty tired by then, I try to teach him everything the best I can, but the mobility exercises are usually left out, I have no power to do those as well, even though those are the most important. Furthermore, in school for his most useful exercises at least two or even three people are needed. How are we supposed to do those?"*

Source

The EMMI designated children with disabilities a particularly vulnerable group during the pandemic and published a 9 point **action plan**, the execution of which was designated to the EMMI, the BM (Ministry of Interior), the Innovation and Technology Ministry (ITM) and local governments. Professional organisations **called attention** to the fact that the execution of the action plan would face obstacles and that the state did not allocate extra funds.

Persons living with autism spectrum disorder had problems wearing a mask during the pandemic. The National Autism Association (**AOSZ**) asked during the first wave of the pandemic that persons with autism be exempt from mask wearing. This only happened in November 2020, during the second wave and the exemption was later expanded to persons with cognitive disabilities.

59. Source: a KSH 2257 OSAP data collection on assisted living.

# BASIC HEALTH AND WELL BEING

*"States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services." (excerpt from Art. 24. UN Convention on the Rights of the Child)*

## Health and healthcare

The previous Child Rights Report was done at the beginning of the public health state of emergency, thus, the healthcare aspects received great attention. According to 2019 data, 40% of pediatric GPs were above the retirement age (20% of them above 70). The National Health Insurance Fund of Hungary (NEAK) provided data showing that in 2019 110 pediatric GP positions were vacant, leaving 72.273 children under 18 without basic pediatric care.<sup>60</sup> The ageing pediatric GP population most likely hindered children's access to healthcare, as during the first wave (March 2020) the minister responsible for healthcare asked healthcare services to alleviate doctors above the age of 65 from work duties. During this period they worked remotely. Healthcare services resumed from 4th May 2020. The new rules of procedure implemented during

the second wave further burdened GPs. It prescribed that only healthy children without symptoms may attend school and after an infection a medical approval was needed for them to return to school. This meant that parents could not approve their children's couple of days illness, they had to turn to their pediatrician every time. According to the president of the National League of Pediatricians, this led to chaotic scenes during the autumn period where 70-80% of children showed symptoms of a cold.

The pandemic measures not only restricted access to healthcare but also other children's rights related to healthcare. Individual stories shared in the media were also reflected in complaints received by the pro bono center of the Hungarian Civil Liberties Union (TASZ).

60. For the current report we had sent our public data inquiry to NEAK in February and only received a response mid-May, after the closing of the report.

According to their information, they received complaints about the presence of parents during hospital care,<sup>61</sup> separation of covid infected mothers from their newborns,<sup>62</sup> and a ban on visitation rights.<sup>63</sup> These cases were mostly related to the visitation rights of parents and their children.

The pandemic also had a significant effect on district nurses. The National Public Health Authority (NNK) prescribed that district nurse – patient meetings be minimised and to promote tele-medicine.<sup>64</sup> According to the recommendation, photos and videos were enough to follow the development of children. This practice violated a number of privacy, children's rights and data protection principles. The Hintalovon Foundation published a guideline for district nurses to minimise these issues.

The new law regulating healthcare worker's employment was adopted at the end of 2020.<sup>65</sup> One of the most important aims was to end gratuity money from the healthcare services. An aspect relevant for children is the right to choose the obstetrician, meaning that the woman could give birth not at the doctor on duty but the doctor of choice in exchange for money. The reform to end gratuity money also abolished the right to choose obstetrician, and many women have voiced

their concerns. The right of choice was viewed as a safeguard. According to the Kohorsz'18 study of the KSH, two-third of pregnant women wanted to choose their obstetrician. However, a 2016 study showed that the number of c-sections was higher among births led by a chosen doctor. The petition titled "Freedom of choice of obstetrician and midwife, transparent circumstances in healthcare!" was signed by more than 10.000, resulting in the government's promise to solve the issue. According to experts, the real solution would be a high standard, reliable obstetrician care.

An extensive **study** was carried out regarding the inequalities of children's health in Hungary. The study analysed accessible data from 2010 and covered the health of newborns, infants, infant morbidity, the health of pregnant women, teenage pregnancies and the health of students. The study highlighted that children in poorer families were in a significantly worse shape than children in wealthier families. Children from poorer families were often disadvantaged right from their birth: born with lower weights and a higher prevalence of early-births, leading to developmental problems. Data showed that the inequalities were still present at later ages: the teeth of poorer children were worse and they were ill and even hospitalized more often.

61. Many institutions prohibited the presence of the father or a chosen person during birth, even though the special measures provided for an exception. In other cases, parents were not allowed to stay with the infant even during the golden hour or they faced difficulties with visiting the infant at later stages.

62. Even though the provision to place the mother and newborn together was in force, it occurred that in case the mother was infected by covid, the newborn was separated from her even if they were both in good health. Feeding with breastmilk was also prohibited during that time.

63. Because of the restrictions on visitation rights it was possible that a hospitalised child could only see one of their parents for 1 hour a day as the hospital did not provide more extensive visitation rights. The child of the parents who turned to the pro bono center was at a hospital ward for terminally ill children, thus, it was of utmost importance for them to visit their child as much as possible.

64. Measure no. 14776-20/2020/EÜIG, the services of district nurses during the pandemic.

65. Act no. C of 2020.

*“The study on children’s health was important for several reasons. First: infant and child health is a good marker for adult health. Children who are sick more often are likely to be sick more often as adults as well. Second: child health inequalities attract attention because of social inequality concerns. [...] Third: child health affects adult health, success in the employment market and social success.”*

Source

The healthy development of children is most important in the period between the ages of 0 and 6. UNICEF Hungary with the support of Penny Market launched

a campaign to provide financial assistance to NGOs providing early intervention and care.

## Youth health

The number of teenage pregnancies was still high. As the KSH released its official data after the closing of the report, we can only discuss the data of 2019. In 2019, each day 5 children brought to life their child, although the number of under 18 pregnancies decreased along with a general decrease in births: in 2018 1995, while in 2019 1820 under 18 girls delivered a child, 58 of whom were under 14.<sup>66</sup> During the same year 14.1 abortions were on average for every 1000 minor aged 15-19.<sup>67</sup>

This data and a **UNICEF 2020** study shows the gaps in sexual education and prevention. The study asked adults raising children under 18 years of age, and 69% of those answering thought that children did not receive sufficient information on safe sex, and

74% of them thought that information on STDs was also lacking.

The government paid special attention to family life education: it became part of the new National Curriculum from 2020 and training was launched for teachers who had had no education on the topic at university. It is key that these gaps had been identified and teachers were given a chance to further their knowledge. However, many professional organisations found that prevention of sexual violence was missing and so was information on how to develop a safe and balanced sexual life – criticism was also voiced because of the central role of traditional gender stereotypes and no emphasis was put on equality.

66. Source: KSH data collection titled “Live birth page” in relation to Act no. CLV of 2016.

67. KSH 22.1.1.14.abortions per 1000 women of relevant age.



Hungarian children on average smoke their first cigarette and consume alcohol for the first time at the age of 13 and try drugs at the age of 14. One in every four girls and boys smoke regularly – as shown by the **ESPAD study** published in 2020. 38.9% of teenagers answered that they had consumed some type of tobacco product in the previous month. 92.4% of adolescents submitted to having consumed alcohol before and 65.5% of them had consumed it in the previous 30 days, while half of them had been drunk. Among 9-10th grader students 17.1% had tried marijuana before and 8.7% tried sedatives without a medical prescription. One in every 20 students tried designer drugs.

The pandemic had a negative effect on the mental health of children. The insecurity about parents' jobs, conflicts at home and anxiety about the pandemic, isolation from friends and digital education proved to be challenging for children, negatively affecting their **mental wellbeing**. Researchers called attention to the fact that in these times people are more likely to develop **addictions**. During the pandemic alcohol consumption **increased significantly** among Hungarians. This indirectly affects children as they were witnesses to their parents' alcohol consumption.

*"The physical and mental health of children today will be the health of adult society in ten-twenty years."*

Source

Even though there was an urgent need for child psychiatric and addictology care, entire regions were **without service**.<sup>68</sup> During the pandemic, online diagnostic

and therapeutic procedures became more common, which could be a valid solution to the geographical inequalities.

## Quality of life

*"States Parties shall recognize for every child the right to benefit from social security (...)" (excerpt from Art. 26. UN Convention on the Rights of the Child)*

Similarly to previous years, the government put great emphasis on the protection of families, also making it a major topic in the public discussion. As the chapter on legislation (A.) and family life (F.) already covered, the pandemic measures included an increase in family

benefits,<sup>69</sup> the expansion of the CSOK benefit as well as the zero interest child expecting loan, the benefit to buy cars and the grandparent child benefit. The prime minister appointed a new minister for family affairs<sup>70</sup>, who promised a second family protection action plan.

68. In our previous report we discussed the dramatic decline in the number of child and youth psychiatric services. The pandemic put the system under extreme pressure, but there was no data available on the issue.

69. Gov. decree no. 58/2020. (III. 23.).

70. Gov. decree no. 437/2020. (IX. 22.).

These benefits however, were often difficult to work out during the pandemic. Availability for grandparent child benefit (gyed) was hindered by covid protection measures for the elderly.<sup>71</sup>

Furthermore, these benefits did not provide support to all families. Their requirements and fixed use depend on many conditions (e.g. health insurance, bank credit etc.), thus the government mainly helps the already wealthier groups while benefits for poorer families remain frozen (see the next paragraph for family allowance). For certain benefits the requirements were very specific and strict. The child expecting loan was found to be violating fundamental rights by the ombudsman, calling upon the minister for family affairs to amend it not to include first marriage as a requirement and not to provide an exemption from the age limit if the woman was already pregnant. The condition of first marriage was dropped but the upper age limit remained unchanged. The National Bank carried out

a survey which underlined the selective nature of the benefits: those opting for the child expecting loan had a higher education, income and savings than the average.

In contrast, the universal family benefit has remained unchanged in the previous 12 years. Even though from 1st October the increased family allowance was made easier to apply for<sup>72</sup> by easing the requirement for documentation, the pandemic highlighted the need for an increase in the amount of the benefit. Due to the pandemic many people lost their jobs, as was shown by the **increase in unemployment** rate, furthermore, digital education and working from home **increased the burden of families**. The Esély Labor Egyesület and the Méltó Megélhetés Munkacsoport launched a **petition** to increase the amount of family allowance. A public opinion survey found that most Hungarians would **approve** such a step.

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*"The poorest children found themselves in a crowded home without heating where not only the digital equipment necessary for online education is missing but also sufficient space where they could study. For many the biggest problem is not falling out of education but not having enough to eat. [...] Families are under a lot of pressure so that children can survive this period without more severe consequences. Children need supervision, food and education."*

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**Source**

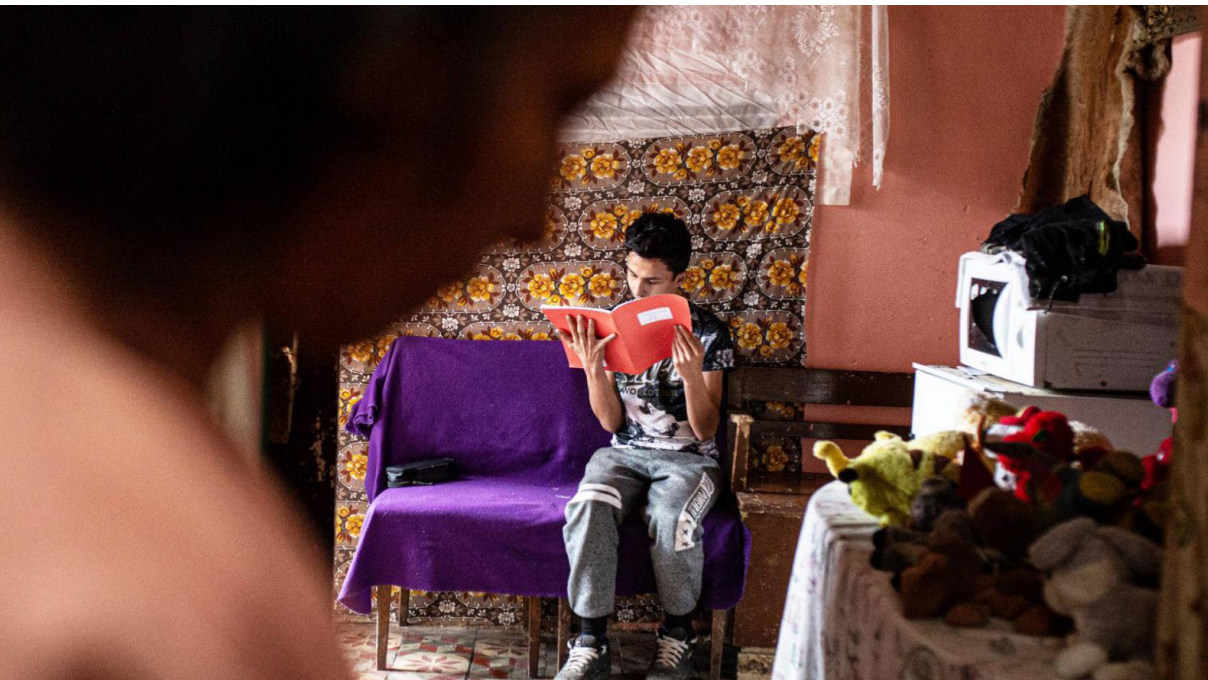
71. The eligibility to grandparent gyed is that grandparents undertake the participation in their grandchild's upbringing while the parents are at work and that parents give their prior approval. However, due to the pandemic, grandparents' relations with their grandchildren faced obstacles, thus, grandparent gyed became virtual during the pandemic.

72. EMMI decree no. 32/2020. (IX. 9.).



The Social Report 2020 issued by TÁRKI featured a study on child poverty<sup>73</sup> which concluded that after the financial crisis the material deprivation rate of European children improved, nonetheless, the percentage of children living in relative poverty increased – meaning that although children’s living conditions improved, inequality grew too. The effects of the pandemic were a great burden for poor families. Although detailed studies have not yet been concluded, field visits showed how the pandemic affected the poorest.<sup>74</sup> Unemployment was an everyday experience, with

pandemic measures further restricting employment opportunities. The quarantine period with digital education was not only burdensome because of the lack of equipment, but also because many households had no electricity and the institutional lunch schemes were suspended so getting food on the table was a daily struggle for many. This further highlights that the lack of state benefits increased inequalities during the pandemic. According to field visits, the quick assessment and action of NGOs (e.g. donations and fundraising) could ease the challenges a bit.



During digital education not only the lack of equipment was problematic: many households were left without electricity and with the suspension of institutional school lunch schemes, putting food on the table was an issue for many.

Source

73. Gábos András–Kopasz Marianna–Donika Limani: **Európai gyermekszegénység: a szülői háttér és a családpolitika szerepe a gazdasági válságot követő időszakban.** In: Társadalmi Riport 2020. Szerk.: Kolosi Tamás–Szelényi Iván–Tóth István György. Budapest, 2020.

74. Czibere Ibolya: A szegényellátások „megingásáról” a vidéki terekben. In: Kovács Éva–Takács Judit: **Látjuk-e, mi jön?** socio.hu, 2020/2, 111–113.; Farkas Zsombor–Farkas Zsuzsanna: Mellékhatások – Néhány kidolgozatlan gondolat szegényekről, szegregátumban élőkéről és felelősségekről a járvány idején. In: Uo. 119–120.

# EDUCATION, LEISURE, CULTURE

*“States Parties agree that the education of the child shall be directed to: (...) The development of the child's personality, talents and mental and physical abilities to their fullest potential (...)” (excerpt from Art. 29. UN Convention on the Rights of the Child)*

## Education, including early care

In January the minister for human resources announced the new National Curriculum,<sup>75</sup> aiming to provide the same opportunities for all children without regard to their place of residence and social situation. The new curriculum drew much criticism, including an increased workload, ideological bias and the restriction on educational freedom. Students, university professors and teachers as well as authors protested against the new mandatory framework for teaching history and literature, and the new state school books

also faced criticism. The ADOM Student movement organised a protest for student and opportunity centered education fit for the 21st century, but the protest had to be cancelled due to the pandemic. Professional organisations turned to stakeholders in an open letter to suspend the new curriculum due to its many flaws. Despite all the protests, the curriculum entered into force 1st September 2020 – with the reformed study hours and structural change of certain subjects, affecting 1st, 5th and 9th graders.

75. Gov. decree no.5/2020. (I. 31.) on the introduction of the new National Curriculum.

*"What do we think about the new curriculum??*

*It is anti-children because, ...*

- even though it decreases study hours, the workload is increased,*
- it does not reflect the change in reading habits, the interests of students and the world around,*
- it promotes lexical knowledge instead of competences,*
- it does not reflect the requirements coming from the employment field,*
- it does not respect the differences between schools and the needs of students, it makes it impossible to differentiate, to promote talent and to help catch up,*
- it is unacceptable that students do not see examples of contemporary problems or current texts as these are entirely missing from the new curriculum. This alienates them from the world of literature."*

**Source**

To prevent the spread of the virus, the government adopted public health measures and on 14th March the switch to digital education was decided.<sup>76</sup> Teachers, students and parents had just one weekend to face the new challenges. The Education Authority (OH) published teaching material, but many questions

remained unanswered. There was uncertainty on which platforms to use, how to handle absence and how to treat exams, but the most important issue was that many children simply could not access digital education.



Digital education  
at the Secondary  
School of the  
Eszterházy Károly  
University, Eger

Photo: Péter Komka/  
MTI

76. The pandemic measures meant that digital education remained in force until the end of the school year, 15th June.

According to the estimates in April of the KRTK-KTI<sup>77</sup> every fifth primary school student had no or significantly restricted access to digital education. Many of them already had problems completing the school years – missing out on digital education only worsened their problems.<sup>78</sup>

According to surveys on students' experiences with digital education they had mixed feelings. Several positive aspects were identified (they could learn more effectively, their IT skills improved, teachers adapted well), nonetheless, they highlighted that digital education was not equal to education outside of school rooms. They had trouble with the workload and impossible deadlines, as well as the use of many different platforms. 2 out of 3 children thought that the quality of education slipped and that the school did not respect their freetime and it was more difficult to keep track of what their tasks were.

These studies also showed the **inequalities** in access. The ADOM Movement's **survey** noted that many families did not have the equipment for all their children to participate in digital lectures simultaneously. Almost one fifth of students **could not be reached** by teachers during online education – for instance because of the lack of internet access or equipment – causing disadvantaged children to fall behind on school.

A **survey** among teachers also showed the issue of falling out of school,<sup>79</sup> as on average 84% of students in schools with wealthier students participated in digital education, while it was only 66% in classes with a high ratio of multiple disadvantaged students, the main reasons were lack of equipment (laptop, computer, with the whole family often using a single computer that all children and even their parents had to share).



In 2020 the GCSE only consisted of the written part due to the pandemic.

Photo: Zsolt Szigetváry/MTI

77. Institution of Economics and Regional Studies.

78. An individual issue was the definition of absence in digital education and its consequences (e.g. exclusion from family allowance).

79. The study was delivered with the cooperation of the Rosa Parks Foundation, the Motivation Association and the Partners Hungary Foundation.



Students taking the Matura examinations in the spring of 2020 were in a difficult position. Many **uncertainties** surrounded how the exams could be conducted safely. A government decree in April ruled that only written exams shall be taken.

In order to start the school year 2020/2021 **prepared** for the pandemic situation<sup>80</sup>, the EMMI and the NNK jointly developed an **action plan**.<sup>81</sup> This was amended multiple times reflecting the change of the pandemic situation and it was made available at the website of the Education Authority (OH) at all times. During the first wave the groups facing difficulties with digital education were examined (e.g. lack of equipment). According to information from the EMMI,<sup>82</sup> schools provided 8.000 computers to families in need and the Klebelsberg Centre purchased an additional 18.000 pieces of digital equipment.

Despite the pandemic measures, the school year 2020/2021 was the first time all students received their school books for free<sup>83</sup> following an amendment to the Public Education Act<sup>84</sup> which prescribes free basic and secondary education to all students.

Upon request, the EMMI informed us that<sup>85</sup> the government took numerous measures in recent years to promote digital methods in education and to improve the necessary infrastructure. According to their data, 350.000 pieces of digital equipment is available at schools. To assist digital education, the National Public

Education Portal also published school books in the form of e-books from spring 2020.

The reports of the ombudsperson called attention to the rights violations of children with disabilities and children in care. Two reports were published where cognitively intact children with autism spectrum disorder did not receive the treatment and education prescribed by the expert opinions. A field visit highlighted the tendency that children in care homes face years of lagging behind.

Although during the pandemic most news were about the problems students had to face but children in kindergarten and nurseries were also affected by the pandemic. In the springtime, local governments had the power to decide on the suspension of kindergarten and nursery services. In many families where parents did not have the option of remote working the supervision of children during the day was a great problem, thus, the end of April saw a decree on the duty of kindergartens and nurseries.<sup>86</sup> The institutions were reopened in May.<sup>87</sup> The **NNK** website read that kindergartens and nurseries implemented unnecessarily restrictive rules (e.g. mask mandate, banning sleep toys brought from home, prohibiting the use of indoor equipment and toys). It was highlighted that the pandemic is already a source of anxiety for the children, as their world changed significantly, thus, a supportive environment to return to in kindergartens and nurseries was key.

80. EMMI (11.03.2021.) public data inquiry.

81. Action plan of the rules applicable for the school year 2020/2021 in educational institutions.

82. EMMI (11.03.2021.) public data inquiry.

83. Gov. decree no. 1092/2019. (III. 8.) on the extension of free access to school books to 10-16th grades.

84. Act no. LXXXVII of 2020.

85. EMMI (2021.03.11.). Information received via request for access to data of public interest

86. Gov. decree no. 152/2020. (IV. 27.) on the day-duty of children during the state of emergency.

87. Gov. decree no. 215/2020. (V. 20.) on the reopening of kindergartens, nurseries and the organising of summer camps.

In November, the European Commission issued the **Education and Training Monitor**<sup>88</sup> 2020 which concluded that the basic skills of Hungarian 15 year-olds was below the EU average and declined since 2009. The EU report emphasised that the lack of teachers was a growing challenge facing the Hungarian education system. A positive remark was that Hungary

had the highest rate of children participating in early care (95,7%). High kindergarten attendance was underlined by the **KSH study**, showing that since 1980, the kindergarten attendance of children aged 3-6 grew by 22 percentage points. This was partly due to the introduction of mandatory kindergarten attendance for children aged 5, then 3, for 4 hours a day.

## Leisure, freetime, recreation, cultural and arts activities

*"States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts." (excerpt from Art. 31. UN Convention on the Rights of the Child)*

We have repeatedly called attention in our previous reports to students being overburdened and to their lack of leisure and freetime. The concept of freetime was completely reshaped by the pandemic and digital education: curfews significantly curbed leisure opportunities. Throughout most of the school year students not only studied online but also kept their social relations online. Two-thirds of those participating in the

**InternetNow** survey felt that school respected their freetime less (63.9%) and they found the blurring of school time and freetime problematic. This was underlined by the ADOM Movement **survey** where students complained about the lack of clear boundaries between school time and freetime – sometimes they even received notifications or homework on the weekends and outside of school hours.

*Unfortunately, in my experience some teachers do not respect our freetime. The fact that we are there does not mean that we can spend every minute studying. We are children and many of us have other duties (e.g. helping parents) and we also need time to play and rest.*

**Source**

As the pandemic was mentally and emotionally challenging for children too, the value of freetime and leisure time increased – however, the pandemic

measures restricted most of the leisure and personal meeting opportunities.

88. The EU Directorate-General for Education, Youth, Sport and Culture.



# SPECIAL PROTECTION MEASURES

## Asylum seeker and migrant children

*"States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties."*  
(excerpt from Art. 22. UN Convention on the Rights of the Child)

Following the deteriorating trend of the previous years, asylum seeker children's rights further declined in 2020. In the then functioning transit zones of Tompa and Röszke 300 people were held at the beginning of the year, half of them children. Asylum applications could only be submitted there, and the government – citing the pandemic – suspended letting asylum seekers into the transit zones. This practically made it impossible to request asylum in Hungary.

Throughout 2020 there was still a constant "mass migration state of emergency" in force, meaning that the provisions of the Child Protection Act were suspended vis-à-vis unaccompanied minors.

The Court of Justice of the European Union ruled in May upon the request of a judge in Szeged that transit zones were places of detention where asylum seekers were stripped of their freedom. A week after the court ruling the government terminated the transit zones and placed the previous asylum seekers in specific centres.

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*“If being placed in the transit zone constitutes detention, then under EU and Hungarian law the authorities have to make a decision that can be contested in court. Furthermore, simply on the grounds of processing an asylum application no one can be placed in the transit zones or other type of detention. Similarly, it is forbidden to restrict the right to freedom without court order or even set deadlines and timelines. Vulnerable asylum seekers (children, pregnant women, victims of torture) can definitely not be put automatically into custody.”*

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#### Source

After the termination of the transit zones new asylum rules were adopted, which are in force today. The state of emergency legislation suspended the use of the asylum act and the right to apply for asylum in Hungary. According to the new rules, a requirement for asylum application was that the asylum seeker made a “statement of will” at the embassies in Kiev or Belgrade which is then approved by the National Migrational Authority (OIF). The Hungarian Helsinki Committee considered the new rules to be in violation of EU law which prescribed that on the grounds of the member states and at their borders asylum applications shall be taken. The Helsinki Committee informed that many children were at the Belgrade embassy to produce the statement required but had no priority.

Simultaneously, police still forced any foreigners entering illegally back to the Serbian side of the border, regardless of the age of the person or whether they wanted to apply for asylum. These expulsions were often violent and against children. Since 2016 almost 70.000 expulsions have taken place, with the number still growing constantly. The Court of the European Union **ruled** in December 2020 that this practice violated EU law, but the Hungarian legislator did nothing to abolish the practice.

Asylum seeker children were still subject to systemic and severe rights violations. Hungary did not guarantee them fair trial vis-à-vis asylum procedures and directly violated their right to physical, mental and emotional safety. The legal amendments violated EU law, one of the principles being the respect for the best interest of the child. The UN CRC Committee also called the government’s attention to the issues of migration policy and practice.

Unaccompanied children who previously received asylum still lived mostly in the Children’s Home of Fót, but news on the planned closure of the institution kept them in constant insecurity and uncertainty. Access to education was still a systemic problem, especially for younger children.

Cooperation between professionals working with migrant children continued in 2020, but without the participation of either of the ministries (EMMI, BM). Psychosocial care of asylum seeker or refugee children was done by NGOs and religious charities.

## Juvenile justice

*"States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society."*  
(excerpt from Art. 40. UN Convention on the Rights of the Child)

There is no available data on juvenile perpetrators in the criminal statistics system (ENyÜBS) since 2018, as a result of the new Criminal Procedure Code which reformed the rules on data collection. Prior to 2018, the number of juvenile perpetrators had been declining since 2013.

According to data from the OBH the number of final convictions decreased steadily. This might mean that the number of registered perpetrators also decreased, but it is important to note that the cases of many juvenile perpetrators do not reach the trial phase, and procedures may take years to conclude.

Cases concluded with a final decision of those aged 12-17. Source: OBH (open-ended data collection)

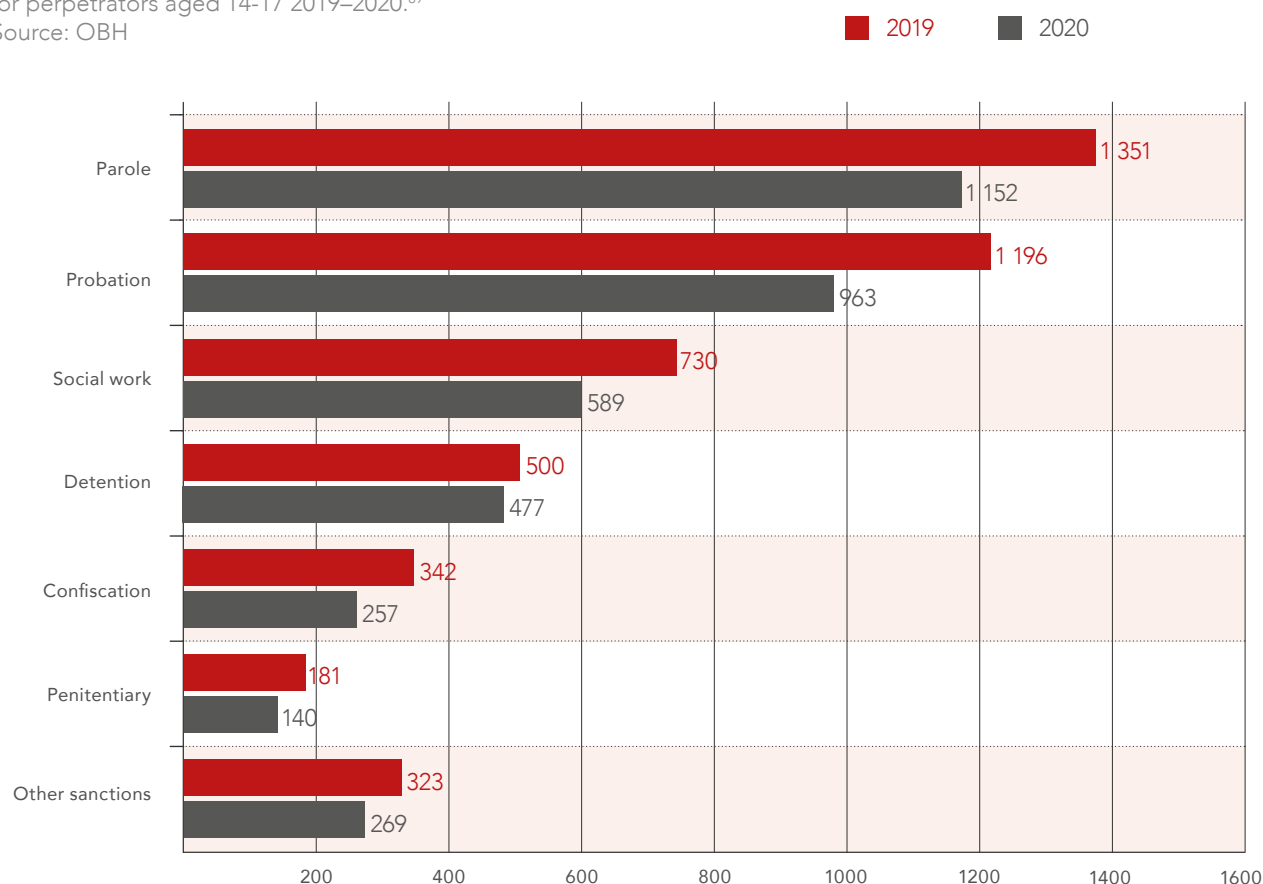
Final decisions	age 12-13					age 14-17				
	2016	2017	2018	2019	2020*	2016	2017	2018	2019	2020*
Number of convictions	21	19	21	21	11	4 065	3 684	3 315	2 809	2 327
Number of acquittals	0	1	0	0	0	51	45	28	27	18
Number of termination of proceedings	0	1	0	0	0	35	25	19	20	13

In 2019, the number of convicted children aged 14-17 was fewer by almost 1000, compared to 2016. In 2020, even fewer final convictions were delivered, however,

it was likely a result of the pandemic slowing down the judicial proceedings.

The sanctions of cases concluded with a final decision for perpetrators aged 14-17 2019–2020.<sup>89</sup>

Source: OBH



According to data by the OBH it was clear that approximately 20% of juvenile convictions were detention, but comparing it to data from the Hungarian Prison Service, in less than 5% of these cases was there actual detention in the end. Two-third of those released from detention left after 1-6 months. Release on parole was uncommon. According to data from the OBH, most cases of juvenile perpetrators ended with parole or probation. Social work as a sanction was in 20% of the cases and penitentiary detention was used in 10%.

The UN CRC Committee in its concluding observations called on the government to reinstate the age of criminal responsibility to 14 regardless of the crime committed. The government showed no signs of

even considering it. According to OBH data around 20 children aged 12-13 were convicted per year. The decline in 2020 – similarly to the case of those aged 14-17 – might be induced by the pandemic. They were sentenced to penitentiary and none of them to prison.

The Committee in its concluding observations called on the government to abolish the practice of sanctioning juvenile perpetrators of misdemeanors with detention. According to data from the BM<sup>90</sup>, though it was still an existing practice, it showed decreasing tendency: in 2016 107 times, while between 2017 and 2019 only 40 times per year, in 2020 only 24 detentions were ordered.

89. The number of convictions do not equal the number of sanctions as multiple sanctions might be applied in a single conviction.

90. Source: BM STAT-VIR

## Children as victims and witnesses to crime

According to data from ENyÜBS, in 2020 more crimes were committed (2698) against children aged 0-13 than in 2019 (2170). Similarly to the previous year, the most common crimes against children were endangerment (758) and assault (542). Juveniles aged 14-17 fell victim to crime 3612 times in 2020, which was almost the same as the previous year (3654). Most common crimes against them were theft (857), assault (731) and breach of the peace (609).<sup>91</sup>

The pandemic also had a negative effect on the victimisation of children. Many NGOs shared that the number of domestic violence cases grew, which was also

present in official statistical data: in 2020, 81 children became the victims of domestic violence, three times as many as in 2019. The number of victims of sexual abuse (222) also grew significantly compared to 2019 (138). It has to be pointed out that in 194 cases children aged 0-13 were the victims. It has to be emphasised that these crimes have a high latency, meaning that many of them are not recorded by authorities. This might have been an even greater problem in 2020 because due to the isolation children had less chances and opportunities to call for help and they had less contact with members of the signalling system (e.g. school, district nurse).

*"It has to be pointed out that pandemic related curfews and isolation are not the causes of abuse, these only push to the edge the imbalanced, abusive relationships and provide more room for the abuser to assert dominance by physical means."*

Source

2020 was the year of assisting victims in Hungary, the Ministry of Justice (IM) coordinated the **Family Rights Working Group**, and multiple campaigns were launched such as the **vansegitse.hu** website. It was promised to create **victim help centers** in every region. In 2020 three new centres were opened: in **Kecskemét**, **Szeged** and **Pécs**.<sup>92</sup>

The EU adopted a new **strategy** in 2020 on the protection of victims, which pays special attention

to particularly vulnerable groups, including children. Among the key measures, the document mentions that child-friendly justice is achieved and models such as the **Barnahus** model are adopted and realised, where child victims and witnesses are heard and receive medical assistance and therapy.

Child victims of sexual exploitation rarely came within sight of the state victim assistance services. Their situation is discussed in the following chapter.

91. Source: **ENyÜBS**

92. Victims are entitled to immediate financial help through the regional Victim Assistance Centres. They are also entitled as part of victim assistance to a proof of victim status and other immaterial forms of help, such as information, legal advice and emotional support.

# MONITORING OF THE COMMIT- TEE'S PREVIOUS CONCLUDING OBSERVATIONS

## Optional Protocol on the sale of children, child prostitution and child pornography

*"States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol." (excerpt from Art. 1. **Optional Protocol** to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography)*

On 1st July 2020 an important legislative amendment package entered into force, which was welcomed both domestically and internationally. The amendments<sup>93</sup> expanded the rights of children falling victim to sexual exploitation to receive professional help. The new provisions prohibited leading a misdemeanor charge

against children offering sexual services. If authorities encounter such a child, they have to treat them as a possible victim of child trafficking and provide protection. The general protective measure is the placement of the child in special homes for 60 days (or if the child was in alternate care, return them to the place of care).

93. Act no. V of 2020 on the response to exploitation of trafficking in humans amended the criminal code, the Child Protection Act and the act on organised crime.



After the amendment the Constitutional Court also ruled in a decision that children cannot be prosecuted for prostitution and that it violates the Fundamental

Law of Hungary if the state responds to the prostitution of children aged 14-18 with sanctions and a prison sentence rather than assistance and help.



Arrest of persons charged with trafficking in humans, sexual abuse and exploitation of child pornography

Source

The Misdemeanor Working Group consisting of professional organisations<sup>94</sup> expressed their concerns that even after the legislative reform, there were still gaps and uncertainties in the care for children involved in prostitution. The legal regulation was unclear whether the protection was also applicable to children who

intrusively offered sexual services, offer it without the necessary medical certificate and whether they were still punishable.<sup>95</sup> It was also worrying that there was still no clear response mechanism present and the placement of child victims in care homes was merely a quick fix, providing a temporary solution for children.

*"The phenomenon of child prostitution is based on the same social problems as prostitution in general: gender inequalities, poverty, financial inequalities, global inequalities and the global social policies not doing anything against it – it is impossible to compensate in a single institution."*

Source

94. The working group was founded by the Civil Liberties Union (TASZ), Hungarian Helsinki Committee and the Streetlawyer Association.

95. The Streetlawyer Association expressed its **concern**.

The law also failed to regulate what would happen to children after the 60 days of temporary placement. Similarly, it was unclear what type of mental help they would receive in the institutions and whether crisis intervention and trauma centre care would be provided. These institutions usually lack staff in sufficient numbers and qualifications in order to decrease the chance of becoming victims again. These shortcomings were highlighted by the Trafficking in Persons (TIP) Report,<sup>96</sup> which despite these gaps promoted Hungary to tier 2 because of the positive steps taken.<sup>97</sup> In light of these, it was worrying that the provider of the children's homes, the EMMI, responded to us that they had no data on how many children in care had been involved in child prostitution. The ministry of interior (BM) could not provide data on the new mechanism instituted by the reform.<sup>98</sup>

The national strategy on tackling trafficking in humans 2020–2023 was published in the beginning of 2020, focusing special attention on under 18 victims.<sup>99</sup> The government published the action plan for 2020–2021 of the strategy<sup>100</sup> which prescribes a number of promising practices and allocates the necessary funds. The strategy however, did not even mention online exploitation.

According to data from ENyÜBS, compared to the previous year the number of criminal procedures against perpetrators of child sexual exploitation increased. For almost every day of 2020 there was a child falling victim to sexual exploitation – trafficking in humans (26 children), child pornography (208 children), exploitation of child prostitution (35 children), grooming (13 children), sexual abuse (59 children) – 304 of them girls and 45 boys. 41% of them were under the age of 13. The number of victims of sexual violence also increased from 138 in 2019 to 222 in 2020 (170 girls, 52 boys). the number of victims of sexual abuse decreased slightly: from 88 in 2019 to 82 in 2020.<sup>101</sup>

Referring back to criminal statistics, it has to be noted that child victims of the above crimes rarely come into reach of the victim aid services, meaning that they are often left without professional help. In 2020 no child victim of trafficking in humans or forced labour received support from the victim aid services. 3 children victims of sexual abuse received aid from the services. 28 children victims of sexual crimes and 11 children victims of sexual exploitation turned to victim aid services personally or via their parents, their guardians, police, child protection services or other supporting adults, most of them applying for non-pecuniary support.<sup>102 103</sup>

96. 2020 Trafficking in Persons Report

97. Hungary was in tier 2 until 2016, then in tier 2 watch list for 3 years.

98. The department responsible for trafficking in humans is part of the Ministry of Interior.

99. Gov. decree 1046/2020. (II. 18.).

100. See footnote 119.

101. Source: **Egységes Nyomozóhatósági és Ügyészeti Bűnügyi Statisztikai Rendszer**

102. IM (2021). public data inquiry.

103. According to data by the IM, the ministry has no data on child pornography, child prostitution, exploitation and assisting in prostitution or grooming.

Online sexual exploitation of children received more attention in Hungary in 2020 than ever before. One of the reasons behind this was the pandemic, as children spent more time online and the curfews as well as the restrictions on international travel made perpetrators look for their victims online. The other reason was the Kaleta-scandal during the summer of 2020, when a diplomat was found to be in possession of 20.000 child pornographic recordings.

It is likely connected to this that the Internet Hotline run by the NMHH reported double the number of complaints about paedophile content and their proportion among violating content also increased. In 2019 276 paedophile content was reported, while in 2020 it was 709, more than 43% of all reports. Workers of the Hotline found child pornographic content in 260 of these cases under Hungarian classification, meaning that more than 36% of the reports were of pornographic content.<sup>104</sup>

The tendencies of reported paedophile content to the Internet Hotline by the NMHH. Source: NMHH public data inquiry, 2020–2021

Year	2016	2017	2018	2019	2020
Content reported to the Internet Hotline	277	462	731	824	1 633
Paedophile content	19	56	95	276	709
Content classified as child pornography by the Internet Hotline	-	19	52	76	260

These numbers were in line with **international trends**. A 2020 case study showed that in many cases (18%) perpetrators of child pornography were juvenile. The main reasons for possessing or sharing these pictures of themselves or of others were carelessness,

irresponsibility, lack of empathy or grudge, rather than the fulfilling of their sexual desires or the abuse of others. The study noted that most likely sanctioning these behaviours had not been the aim of the legislator.

104. NMHH (2021). public data inquiry.

## Optional Protocol on the involvement of children in armed conflicts

*"States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities." (excerpt from Art. 1. **Optional Protocol** to the Convention on the Rights of the Child on the involvement of children in armed conflict, Art. 1.)*

We have already highlighted in our previous reports the tendency that in recent years the **patriotic upbringing** of children had a lot of emphasis.

In 2020 the secretary of EMMI responsible for social affairs, the Ministry of Defence, the Military and the Sports Branch of the Military under the motto **"Arm yourself!"** signed a cooperation agreement. The **cooperation** provides an opportunity for 23.000 children in care to get to know the military as part of the child

care and home defense programme. The programme serves military and child protection purposes jointly, so that children in care receive information and skills on national defense, national feelings and sport.

The minister for nationalistic and military education delivered a speech in February 2020 titled **"Challenges and opportunities in the reformed Nationalistic Education"** on how nationalistic education was present as an important topic in the new National Curriculum.

*"he most important is that children love their home country; if they do so, then that feeling can easily be transformed into a caring attitude and a protective community."*

Source

The government in its 1490/2020. (VIII. 11.) decree decided on the first phase of the building of **Military Sport Complexes**. 16 centres would be built, which could also function as community spaces, but their main purpose will be to be used as shooting practice areas and places for self-defence sports.

The UN CRC Committee in its **concluding observations** once again called to Hungary's attention that children could not be subjected to military training where live ammunition was used. The Committee also noted that the Military School Kadet Programme<sup>105</sup> had to be in line with the Optional Protocol.

105. We have discussed the **Military School Kadet Programme** in our **2018 report**. The Military School Kadet Programme (according to its self description) aims to help elementary school students understand that national defense is the basis of our nation. Great emphasis is put on sports related to national defense, military traditions and the upkeep of military graves.

# RATIFICATION OF THE OPTION- AL PROTOCOL ON A COMMU- NICATIONS PROCEDURE

## Optional Protocol on a communications procedure

The third optional protocol, unlike the others, does not elaborate further a provision of the UN CRC, rather it establishes a complaint mechanism for violations of children's rights from April 2014. It allows children to submit their complaints directly to the UN CRC Committee which investigates them and orders the state to take the necessary steps. The Optional Protocol was not signed by Hungary, although according to the ombudsperson the legislation for the accession to the protocol has been put before the government.

The signing and ratification of the optional protocol is urgent, because the CRC Committee in its **concluding observations** highlighted that ratification is necessary to further strengthen children's rights.

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