



Monitoring the rights of persons with disabilities

1. There is no independent mechanism to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD).¹ The Government has not established an independent mechanism to promote, protect and monitor the rights of persons with disabilities and the implementation of the CRPD as set forth in Article 33(2) thereof.

Recommendation:

- Establish an independent mechanism to promote, protect and monitor the implementation of the CRPD in accordance with the Paris Principles.

National Human Rights Institution

2. The Equal Treatment Authority, the well-respected quasi-judicial administrative body adjudicating discrimination complaints, was abolished as of 1 January 2021. Its mandate and competences were transferred to the Ombudsperson.² The Ombudsperson has a broad mandate, its focus is divided among various issues, therefore there is a serious risk of reduced attention to non-discrimination which may result in a lower level of protection.

Recommendation:

- Restore the independent and autonomous Equal Treatment Authority with its original mandate.

Equality and non-discrimination

3. Under the CRPD, the denial of reasonable accommodation constitutes discrimination, and the notion of reasonable accommodation has to be enshrined in national legislation. Although the National Disability Program³ includes a provision for reasonable accommodation, there has not been any legislative changes so far: reasonable accommodation is still only provided for in legislation concerning employment.⁴
4. Under current hate speech legislation only members of certain communities, such as ethnic, and religious communities, have the right to launch a civil lawsuit if hate speech targets not them personally but their community as a whole.⁵ Persons with disability do not have this right. In MEOSZ's opinion this regulation is discriminatory.

Recommendations:

- Transpose the requirement of reasonable accommodation into the Equal Treatment Act (Ebkty.)⁶ and the Act on the Rights and Equal Opportunities of Persons with Disabilities (Fot.)⁷.
- Repeal the discriminatory regulation and allow persons with disabilities to enforce their personality rights in case of hate speech against the community of disabled persons.

Women with disabilities

5. There is a general lack of awareness about the specific problems and rights of women with disabilities in Hungary. In its Inquiry Report in 2019 (CRPD/C/HUN/IR/1), the UN CRPD found that there was ‘a general lack of understanding about the intersectionality of gender and disability in policy implementation.’ Even though the National Disability Program⁸ states that programs shall be developed to assess the social circumstances of women with disabilities, and upon their findings a strategy shall be elaborated, there has been no such programs and strategy so far.
6. The right to health of women with disabilities is seriously limited. Not in every municipality can women with disabilities attend mandatory breast and cervical cancer checks. Accessible lung screening and other radiological machines, and colonoscopy facilities are not available at all screening facilities in the country. Therefore, people with a physical disability will either be left without care and timely screening or, at their own expense, they have to access costly private health services.⁹
7. The lack of appropriate support programs to find jobs and low level of employment of women with disabilities cause that many women with disabilities are at risk of poverty. Data published in the Gender Equality Index 2020 of the European Institute on Gender Equality¹⁰ found that only 20.1% of women with disabilities in Hungary are employed full-time, compared to 26.2% of men with disabilities and 56.6% of other women.
8. Discrimination by association impacts mothers of children with disabilities and women taking care of their family members with disabilities due to the lack of proper social and financial support. The lack of community services for persons with disabilities adversely impacts the lives of thousands of women, who – placing the family member in institutions being the only alternative – must stay home and care for their family members.
9. In 2020, the CRPD/C/HUN/IR/1 report found that gender-based violence is still prevalent in social care homes, but also in private households: *‘women with disabilities, particularly those who are under guardianship and institutionalized, including those in supported housing, are exposed to gender-based violence, including violations of sexual and reproductive rights, such as forced contraception and forced abortion’*. The abuse of women with disabilities, although widely present, remains a taboo in Hungary, and appropriate assistance to victims of violence is scarce.
10. Despite some pilot programs implemented with the help of European Union (EU) funding, there is no comprehensive national program designed specifically to help women with disabilities in their practical prosperity, and to prevent abuse, protect and rehabilitate victims.
11. The appropriate protection from all forms of violence and abuse of women with disabilities is hindered by Hungary’s unwillingness to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).¹¹

Recommendations:

- Take into consideration the rights and needs of women with disabilities and develop strategies and programs to eliminate their disadvantages.
- Ensure that health care for women with disabilities and their participation in screening programs are available throughout the country.
- Take steps to improve the employment rate of women with disabilities.
- Create comprehensive national programs to prevent abuse and violence against women with disabilities.

Children with disabilities

12. The government has not developed an effective legislative framework and strategy to prevent the institutionalization of those children with disabilities who their parents cannot care for. It constitutes severe discrimination that while in general, in the absence of parental care children under the age of 12 have to be placed at foster parents, this obligation may be waived in case of children with severe disabilities if the placement at foster parents is not in the 'best interest' of the child, or if it is not possible due to their state of health.¹² Consequently children with severe disabilities can still be admitted to residential institutions.
13. Children with disabilities are over-represented compared to the total number of persons living in homes for disabled persons.¹³ The Government has not adopted a strategy for the deinstitutionalization of children with disabilities to ensure they can duly exercise their right to family life.

Recommendations:

- Develop an effective legal framework and strategy to prevent the institutionalization of children with disabilities.
- Adopt a strategy of deinstitutionalization of children with disabilities.
- Repeal Article 7(2) a) of Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship and place children with disabilities with foster families along with available and accessible social care, health care, educational and other services close to their families.

Equal recognition before the law

14. Many people with severe physical disabilities are unable to sign official documents due to their condition. According to Hungarian law, persons who are incapable of writing and signing a document can only make a legal declaration in the form of an authentic instrument.¹⁴ For them, notarial procedure is the only way to sign a contract, or to make other types of legal declarations, such as administrative and banking matters. This regulation violates the equal opportunities of – among others – those persons with disabilities whose both upper limbs are affected.

Recommendation:

- Amend legislation to allow people who are unable to write or sign due to their physical disability to make legal declarations not only before a notary public.

Accessibility

15. In Hungary equal access to public services is not adequately provided for persons with disabilities. Statutory deadlines for ensuring accessibility and equal access to all public services expired on 1 January 2014, however public investments into accessible buildings and services are still insufficient. A common problem is that even when it is claimed that new buildings are accessible, the end result does not always meet the requirements of accessibility, thus equal access to public services is not guaranteed. There are significant gaps in ensuring equal access to health care, education and public transport systems. The full accessibility of public transport systems should adhere to the principle of equal access in all aspects, including design, development, manufacturing, procurement and deployment of vehicle fleets, passenger facilities and passenger information systems. The lack of accessibility of healthcare facilities and medical devices adversely affect people with disabilities. Furthermore, the requirements of reasonable accommodation and universal design have not been transposed into domestic law.

Recommendations:

- Put effective control mechanisms in place from the planning stage onwards, and penalize non-compliance with accessibility standards.
- The requirements of reasonable accommodation and universal design should be transposed into domestic law.
- Develop full accessibility of public transport systems.
- Ensure that persons with physical disabilities fully enjoy the various forms of general health care and specialist care, as well as screening programs provided by the state, with adequate autonomy and dignity.

Education

16. The overarching problem of education is that no strategy of action to create the conditions for inclusive education has been adopted. The principles of inclusive education, universal design and reasonable accommodation as prescribed by the CRPD have not been incorporated into the Hungarian public education system.¹⁵ Most public educational institutions are still not physically accessible, and they are often unable to provide adequate material and personal conditions, so children with disabilities are left without appropriate education, and later are disadvantaged both in their social integration and in the labor market. There is no legal framework and resources allocated to the social and educational support for children with reduced mobility and their personal needs, therefore their equal access to education is not ensured. Children with disabilities often receive education, or in case of severe and multiple disabilities, 'developmental education', away from their family homes, which also places a disproportionate burden on them and their families.

Recommendations:

- Incorporate inclusion, reasonable accommodation and universal design into the legislation on public education system and make it directly enforceable.
- Make educational institutions fully accessible.
- Provide educational opportunities (schools) as close as possible to the homes of students.
- Amend current legislation to ensure that children with severe and multiple disabilities participate in ‘developmental education’ in a school instead of the family home.
- Develop a comprehensive educational strategy from early intervention to higher education with a focus on disabilities.

Community living

17. Current legislation does not guarantee the right to independent living. Only about 10 to 15% of all persons with disabilities in Hungary are recipients of community-based social services – studies agree that the reason why so few people access services is due to the unavailability of services in many parts of the country, and also because available services are often inadequate to people’s needs.¹⁶
18. The number of disabled people living in long-term care homes is also high: over 42 thousand persons with disabilities lived in institutions in 2016.¹⁷ Many institutions provide accommodation for over 100-200 people, where conditions are often dire. Current efforts by the government – their ongoing deinstitutionalization program – do not tackle these problems.
19. The Government’s deinstitutionalization strategy has delivered mixed results.¹⁸ “Supported housing” settings in Hungary provide accommodation for up to 12 persons, and are often found in remote settlements with little chance for residents to be integrated into local communities. It is reported that surveillance and limitations to residents’ freedom of movement are in place in many of these services.
20. The EU’s Structural Funds are still being spent on the refurbishment of residential care homes and institutions for children, including homes for children with disabilities.

Recommendations:

- Amend current legislation on social services and provide budget in order to make community-based support services available 24/7 and in all regions of the country. Develop a community-based support system of high professional quality which answers individual support needs.
- Stop spending public funds, including EU-funds on residential institutions and start developing new forms of community services for persons with disabilities.

Personal mobility

21. The right to accessibility and to informed decision-making of persons with disabilities is violated due to the Government's failure to introduce individual needs support in the special aids system. (A paternalistic medical approach is still dominant concerning special aids: for instance, the Hungarian term for special aids translates literally as "medical aids".) A considerable proportion of persons with physical disabilities are forced to buy and use a device privately, from the market. Due to the problems of the special aids support system, MEOSZ turned to the Ombudsman, who ordered a comprehensive inquiry in March 2021.¹⁹
22. The problems of the support system are mainly caused by the lack of state quality control and the system's inflexibility. There is no state-ensured quality control of the special devices provided through the current state-funded system. The consequences of faulty performance are borne by persons with disability, because they are banned from receiving another state-supported device within the support period even if what they have received is not good for them or cannot be repaired.
23. The supported medical devices and support conditions are determined by the state in advance, item by item, thus the system is inflexible. Instead of the quality of the product, the lower price is the only thing that matters when a decision is made on adding a product to the support list. The selection of a device that meets individual needs and free and informed consent are also hindered by the fact that the opinion of neither a rehabilitation specialist nor the prospective user is taken into account for the selection of the device, moreover, there is no possibility to try and test the device in all cases.

Recommendations:

- Develop a system that responds to individual support needs based on physical state, life situation, and living environment and where the criterion for state support is not the medical device's price.
- It should be possible to use the amount of support for any device selected from the full range of products, taking into account the views of the treating doctor, the rehabilitation specialist and the person concerned.

Adequate standard of living and social protection

24. The Government provides various cash benefits on a monthly basis to promote equal opportunities for persons with disabilities. Of these, 'disability grant'²⁰ and the 'disability allowance'²¹ may be granted on the basis of health damage regardless of the length of prior insurance period. Although these benefits are intended to cover the additional costs associated with disability and to improve the health and living conditions of persons with disabilities, their amount is extremely low. The value of these benefits has not been reviewed in the last five years, their amount only increases with the rate of regular annual pension increases. As of 1 January 2021, disability allowance is HUF 40,310 (EUR 110) per month²², disability grant is HUF 24,335 (EUR 66) per month,²³ for people without self-service ability HUF 29,713 (EUR 81) per month²⁴. For comparison: in 2019, the subsistence minimum for a one adult household was HUF 101,400 (EUR 276).²⁵ Thus, the current amount of benefits does not provide real financial assistance to those affected and it is unsuitable for compensating for social disadvantages resulting from severe disability.

25. In addition, from 1 March 2020, the previously two-instance administrative procedure has become one-instance in the majority of cases²⁶, including disability-related benefits. This means that redress is only possible in court, which makes it significantly more difficult for those concerned to seek legal remedies.

Recommendations:

- Increase the amount of benefits for people with disabilities to ensure adequate standard of living and social protection for them.
- Restore two-instance administrative procedures for decisions on disability-related benefits.

Access to labour market

26. Hungary has failed to develop programs to integrate persons with disabilities into the open labour market and increase the employment opportunities for persons with disabilities in the public and private sectors. The employment of people with disabilities is still far below that of non-disabled workers. 'Supported employment' is more common than employment in the open labour market. According to the Hungarian Central Statistical Office's survey published in 2018, the number of disabled employees was as low as 16% in 2016.²⁷ Fot. emphasizes that integrated employment of people with disabilities is desirable as opposed to 'supported employment',²⁸ however, a complex support system has not been developed, and the existing forms of support cannot completely fulfil their function.

27. Employers must pay a 'rehabilitation contribution' to the state if they have more than 25 employees and the proportion of persons with 'reduced working capacity' within the workforce is below 5 %.²⁹ The problem is that 'reduced working capacity' covers a much wider circle than persons with disability (e.g. a person with blood pressure problems may qualify as such). This means that it may not be in the employers' best interest to employ a disabled person, since the employment of a worker whose working capacity is reduced but who is not disabled may be less costly and requires less accommodation.

Recommendation:

- Develop programs and create legislation to facilitate the integration of persons with disabilities into the open labor market.
- Ensure that rehabilitation contribution is used by the state only for the integration of disabled people in the labor market, and that national associations of disabled people are involved in the process.

Endnotes

¹ Article 33(2) of the UN Convention on the Rights of Persons with Disabilities sets forth that States Parties shall maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the CRPD.

² Act CXXVII of 2020 on Amending Certain Laws to Ensure More Effective Enforcement of the Requirement of Equal Treatment.

³ Parliamentary Resolution 15 of 2015 (IV. 7.) on the National Disability Program (2015-2025).

⁴ For example, under Article 51(5) of the Act I of 2012 on the Labor Code.

⁵ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities.

⁶ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities.

⁷ Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities.

⁸ Parliamentary Resolution 15 of 2015 (IV. 7.) on the National Disability Program (2015-2025).

⁹ http://www.meosz.hu/wp-content/uploads/2017/04/20170330_level_EMMI_szuresek.pdf.

¹⁰ EIGE, Gender Equality Index 2020, data on Hungary: <https://eige.europa.eu/gender-equality-index/2020/domain/health/HU/disability>

¹¹ https://www.europarl.europa.eu/doceo/document/E-9-2020-002981_EN.html

¹² Article 7(2) of Act XXXI of 1997 on Protection of Children and the Administration of Guardianship (in force as of 1 January 2017)

¹³ <https://www.sos.hu/hirek/a-fogyatekkal-elo-gyerekek-jogai-serulnek-a-legjobban/>

¹⁴ Article 6:7(4) of the Civil Code

¹⁵ The Act CXC of 2011 on National Public Education (National Public Education Act) does not prescribe the requirement of inclusive education.

¹⁶ Kozma et al., 2020.

https://www.tarki.hu/sites/default/files/2020-10/381_403_Kozma_Petri_Bernat_web.pdf

¹⁷ 42,758 people. This number includes all long-term care homes such as homes for disabled people, homes for psychiatric patients, elderly homes etc. Source: Central Statistical Office, 2016.

http://www.ksh.hu/mikrocenzus2016/kotet_8_fogyatekos_es_az_egeszsegi_ok_miatt_korlatozott_nepesseg_jellemzoi

¹⁸ See MEOSZ's policy statement form 2019: <https://enil.eu/news/hungarian-new-deinstitutionalisation-strategy-must-be-scraped/>

¹⁹ For further anomalies of the medical aid support system and MEOSZ' recommendations see: <http://www.meosz.hu/wp-content/uploads/2021/01/2021.01.04-Sajtoosszefoglalo-ombudsmanikerelemrol.pdf>

²⁰ In Hungarian: 'fogyatékosági támogatás'

²¹ In Hungarian: 'rokkantásági járadék'

²² Article 2 (3) of Council of Ministers Decree No. 83/1987. (XII. 27.) on Disability Allowance

²³ Article 23/A of Fot.

²⁴ Ibid.

²⁵ <https://policyagenda.hu/elemezsek/tarsadalom/2020/letminimum-2019-elozetes-adatok/#more-18888>

²⁶ Article 116 of the Act CL of 2016 on the Code of Administrative Procedure

²⁷ https://www.ksh.hu/docs/hun/xftp/idoszaki/mikrocenzus2016/mikrocenzus_2016_8.pdf

²⁸ Article 15 of Fot.

²⁹ Article 23 of the Act CXCI of 2011 on Benefits of Persons with Reduced Working Capacity